

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.16483 of 2021

Chandan Behera

....

Petitioner

-versus-

State of Odisha

....

Opposite Party

**CORAM:
THE JUSTICE S.PUJAHARI**

**ORDER
08.04.2022**

**Order
No.**

01. 1. This matter is taken up through Hybrid mode.
2. The Petitioner apprehending his arrest in Kuliana P.S. Case No.135 of 2021 corresponding to C.T. Case No.130 of 2021 pending in the court of learned Special Court under POCSO Act, Baripada, registered for alleged commission of offence punishable under Sections 363/3376(2)(n) IPC and Section 6 of the POCSO Act has filed this petition for his release on pre-arrest bail.
3. Heard learned counsel for the Petitioner and the learned counsel for the State.
4. It appears that the Petitioner had earlier approached this Court in ABLAPL No.14738 of 2021, which was disposed of vide order dated 06.12.2021 directing him to surrender before

the court of S.D.J.M., Baripada in the first hour and in the event of rejection, he may move for bail before the next higher forum in the second hour and in that event, the bail application of the Petitioner shall be considered and disposed of by the higher forum in accordance with law on the same day, if there is no other legal impediment. Since in the meanwhile the case has been turned to POSCO Act, the Petitioner without surrendering before the court in seisin over the matter has again come to this Court seeking pre-arrest bail.

5. Learned counsel for the Petitioner submits that this is a case of elopement and the said case is now pending before the Special Court under the POSCO Act, Baripada.

6. Considering the facts and the submissions made, this Court is not inclined to grant anticipatory bail to the Petitioner, but directs the Petitioner to surrender and move for bail before the court in seisin over the matter within six weeks hence and in that event, the Court in seisin over the matter shall consider and dispose of the bail application of the Petitioner on its own merit on the same day. The victim may appear before the said court to have her response on the same. Furthermore, the court concerned shall consider all the attending circumstances while considering the prayer for bail of the Petitioner without being influenced by the order of rejection of the pre-arrest bail application of the Petitioner.

7. However, the aforesaid observation should not be construed as a protection from arrest till the date of surrender.

8. The ABLAPL is, accordingly, disposed of.

9. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

PKS

