

(2023) 10 OHC CK 0179

In the Orissa High Court

Case No : Anticipatory Bail Application No. 8222 Of 2023

Dayanidhi Dalima @ Dayanidhi Dahima State Of Odisha

Date of Decision : 18-10-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 268, 294, 349, 350, 354A, 354C, 383, 420, 468, 495, 503, 509
Information Technology Act, 2000 — Section 66(A), 66(E), 67, 67(A)

Citation : (2023) 10 OHC CK 0179

Hon'ble Judges : Sashikanta Mishra, J

Bench : Single Bench

Advocate : J. Das, B. Mohapatra, P. Chinhara, B.P.Mohapatra, B.P. Mohapatra, S.K. Jena, G. Lenka, L. Mishra, S.N. Rath S.K. Singh, R. Parvez, A. Sahu

Final Decision : Disposed Of

Judgement

Sashikanta Mishra, J.

1. The petitioner is apprehending arrest in connection with Laxmisagar P.S. Case No. 298 of 2023 corresponding to 1.C.C. No. 3418 of 2023 pending in the court of learned J.M.F.C., Bhubaneswar for the alleged commission of offence under Sections 268/294/349/350/ 354/354-A/354-C/383/420/468/495/503/509 read with Sections 66(A)/66(E)/67&67(A) of the Information Technology Act, 2000.
2. The above case originally arose out of a complaint filed by one 'x' (name withheld) in the Court of J.M.F.C., Bhubaneswar being I.C.C. Case No.3418 of 2023 alleging therein commission of the offence under Sections 268/ 294/ 349/ 350 /354-A/ 354-C 383/ 420/ 468 /495 /503 /509/ read with Sections 66(A)/66(E)/67&67(A) of the Information Technology Act, 2000.
3. It is stated that the petitioner and the complainant were known to each other as the petitioner is an ad film maker and the complainant is an actress. They developed friendship, which gradually transferred into an emotional relationship. The petitioner offered a contract to the complainant promising her to give multiple advertising campaigns and movies so as to ensure development of her

career. Gradually the petitioner restrained the complainant from accepting projects of other Producers and Directors but the complainant met with several people in connection with her work whereupon the petitioner protested and raised hue and cry. The petitioner harassed the mother of the complainant sexually and mentally and also mentally harassed her brother in the year, 2022. He also used different social media platforms to post derogatory messages about the complainant with a view to malign her character. The petitioner also assaulted her in front of her classmates and sexually molested her. Taking advantage of their relationship, the petitioner took several intimate pictures of himself and the complainant in various compromising positions and blackmailed her by threatening to make such photographs public. It is also alleged that the complainant had transferred a sum of Rs.1,80,000/- to the account of the petitioner, which he did not return despite several requests. Further, the petitioner paid the complainant amounts which were 70% to 80% less than her usual fees. Finally, the petitioner demanded that if the complainant did not recommend his name as Publicity Rights for her projects, he would pursue false legal proceedings against her.

The complaint, being filed, was sent for registration and investigation to the IIC of Laxmisagar P.S. and accordingly, Laxmisagar P.S. 298 dated 25.07.2023 was registered and investigation is in progress.

5. Heard Mr. Jashobanta Das, learned Senior Counsel with Mr. Bidyalok Mohapatra, learned counsel for the petitioner, Mr. S.K. Mishra, learned Additional Standing Counsel for the State and Mr. Lalitendu Mishra, learned counsel for the complainant.

6. Learned Senior Counsel Mr. Das has forcefully argued that this is a clear case of an emotional relationship gone sour and therefore, all the allegations made in the complaint petition are to be outrightly rejected as false and baseless. The complainant on her own admission, was emotionally close to the petitioner apart from their professional relationship and dispute/disagreements arose between them on certain issues. On the contrary, the petitioner has always helped the complainant to be established in the entertainment industry and by lending financial support on many occasions. Mr. Das finally contends that even otherwise some of the offences alleged are bailable in nature and in any case carry punishments less than seven years. The petitioner is a reputed ad film maker and so, if arrested in connection with the case it will cause severe damage to his reputation and dignity not only to his profession but also before the society at large.

7. Mr. S.K. Mishra, learned State Counsel has opposed the prayer for bail by submitting that several derogatory messages issued by the petitioner were found to have been sent by him in the name of the complainant, as revealed during investigation. These messages reveal a strong prima facie case against the petitioner and therefore, no leniency should be shown to him.

8. Mr. L. Mishra, learned counsel for the complainant has argued that the petitioner has taken undue advantage of his friendship with the complainant by forcing her to work only for him at lesser price. There is clear evidence that the petitioner has attempted to sexually assault the complainant on various occasions and ultimately maligned her directly by posting derogatory and offensive messages on the social media.

9. I have heard learned counsel for the parties at length and have also perused the complaint petition, the objection filed by the complainant and the materials available in the case diary in detail. Perusal of the complaint petition reveals that firstly, the petitioner and the complainant had a close emotional relationship so much so that the complainant had apparently allowed herself to be photographed by the petitioner even in compromising positions. Secondly, the entire complaint refers to incidents that are alleged to have taken place in the year 2022. There is no reference to any specific incident of the alleged sexual assault, harassment etc. It is true that certain messages were found to have been posted on the social media containing offensive language but then there is no clear-cut evidence to show that the said messages were posted by the petitioner from his own account. After going through the case record, this Court is more inclined to accept the argument of learned Senior Counsel that it is a case of an emotional/professional relationship gone sour. Of course, there are some offensive posts and messages between the parties but the same are not sufficient, at least at this stage, to suggest a definite criminal intention on the part of the petitioner, assuming that they were actually posted by him. As already stated, the complaint petition contains averments in general terms without any specific allegations. Therefore, taking into consideration all the above facts this Court finds it difficult to accept that the petitioner had acted with a definite criminal intention.

However, having regard to the sensitivity of the relationship between the parties and there being evidence of some messages being posted on social media, I am not inclined to grant anticipatory bail to the petitioner. At the same time, looking at the alleged offences, all of which are punishable with imprisonment for less than seven years, I am nevertheless, inclined to take a lenient view.

10. The anticipatory bail application is therefore disposed of granting liberty to the petitioner to surrender before the court in person of the matter within one week from the date of receipt of certified copy of this order and move for regular bail. In such event, the petitioner shall be released on bail on such terms and conditions as the court may deem fit and proper to impose including the following conditions:-

- i. He shall not make any sort of contact either physically or telephonically with the complainant.
- ii. He shall not approach, threaten, coerce or pressurize the complainant in any manner whatsoever.

iii. He shall not speak about the case to the media/social media.

iv. He shall personally appear before the court in sesin of the matter on each date of posting of the case without fail and in case of even a single default, it shall be open to the court to issue NBW to take him into custody again.

11. The ABLAPL is accordingly disposed of.

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