

(2022) 02 OHC CK 0139

In the Orissa High Court

Case No : Bail Application No. 9340 Of 2021

Kanha Das @ Kannha Das And Others

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 17-02-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 109, 323, 342, 365, 366, 368, 376(2)(n), 506

Citation : (2022) 02 OHC CK 0139

Hon'ble Judges : A.K.Mohapatra, J

Bench : Single Bench

Advocate : Partha Sarathi Das, K.K. Nayak, Mithun Das,

Final Decision : Allowed

Judgement

A.K.Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner, learned counsel for the State and learned counsel for the Informant. Perused the F.I.R. and other relevant documents on record.
3. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Tangi P.S. Case No.256 of 2021, corresponding to G.R. Case No.295 of 2021, pending in the file of learned N.G.N.-cum-J.M.F.C., Tangi, for commission of alleged offences under Sections 365/342/323/506/366/368/376(2)(n) /109/34 of I.P.C.
4. The case of the Petitioner in a nutshell is that the present Petitioner, the victim girl and the principal accused person, namely, Sidhanta Nayak were well known to each other as they are co-villagers. Since Sidhanta Nayak and the

victim girl had love relations, they eloped from their house and stayed at Bhubaneswar. When the family members of the victim came to know about the fact and received marriage proposal of their girl with the said Sidhanta Nayak, they did not agree with the same instead lodged complaint case against one Sidhanta Nayak and two other co-accused persons before the learned N.G.N.-cum-J.M.F.C., Tangi, for commission of the above offences, vide I.C.C. Case No.27 of 2021. Subsequently, Tangi P.S. Case No.256 of 2021 was registered. After completion of investigation, charge-sheet has been submitted against the Petitioner under Sections 365/366/34 I.P.C. The further submission is that Petitioner is languishing in jail custody since the date of his arrest, i.e. 26.09.2021. As Petitioner is a permanent resident of the place, there is no chance of his absconding in the case.

5. Learned counsel for the Informant has filed an Affidavit, which is placed at Flag-B of the brief, wherein she had admitted that the matter has been settled/compromised between the parties and the said fact has also been intimated to the I.I.C., Tangi P.S., Khurda. In the said affidavit, she had also stated that she had no objection if the accused persons are released on bail, as the matter has been amicably settled between the parties in presence of the local gentries.

6. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner. He also reiterates the fact of compromise between the parties. However, he submits that if the Petitioner is released on bail, stringent conditions may be imposed on the accused Petitioner.

7. Having heard learned counsel for the parties, considering the nature and gravity of offences alleged, the statement of the Informant made and the period of detention of the Petitioner, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to conditions that the Petitioner shall not tamper with the prosecution evidence or show any threat or influence the witnesses in any manner whatsoever and cooperate in the trial of the case. The court in seisin of the matter may impose any additional condition(s), if situation so warrants. Deviation of any of the above conditions shall entail cancellation of the bail.

8. With the above direction, the BLAPL is accordingly allowed.

9. Issue urgent certified copy on proper application.

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