
(2014) 2 OLR 411

Orissa High Court

Case No: BLAPL No. 2886 of 2014

Sukhindar Singh
Garcha

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision: May 6, 2014

Acts Referred:

Arms Act, 1959 " Section 25#Criminal Procedure Code, 1973 (CrPC) " Section 438#Penal Code, 1860 (IPC) " Section 354, 376, 498A, 506, 511

Citation: (2014) 2 OLR 411

Hon'ble Judges: S.K. Mishra, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

S.K. Mishra, J.

This is an application u/s 438 of the Cr.P.C. The petitioner happens to be the accused in G.R. Case No. 149 of 2014 of

the Court of the S.D.J.M., Sambalpur, arising out of Sambalpur Mahila P.S. Case No. 03 of 2014.

2. The petitioner happens to be a retired Captain of the Indian Army. His wife has brought allegations against him of torture and various other

offences, for which a case under Sections 498A, 376, 511, 506, 354 of the IPC, Section 25 of the Arms Act and Section 66A of the I.T. Act has

been registered. It is borne out from the records that on an earlier occasion, the informant has filed a similar FIR, which was registered as

Ainthapali P.S. Case No. 132 of 2012. The allegations were almost similar in both the FIRs except the fact that the informant has developed a

further story that her father-in-law has made an attempt to rape her, for which a case u/s 376/511 of the IPC has been added. Additionally, it is

seen from the records that the informant further alleged that she came across with certain video CDs. which show that the petitioner was having

sexual intercourse with another woman and in another C.D., he was outraging the modesty of a girl. It is stated by the informant that the girl and the

woman in the C.D. are the employees of the petitioner and he was taking undue advantage of their employment, for which the petitioner is booked

for the alleged offences as stated above.

3. It is borne out from the records that as per the order dated 20.03.2014 passed in BLAPL No. 2355 of 2014, the co-accused, who happens to

be in the same footing and as against whom an offence punishable u/s 376/511 of the IPC has been said to have been registered, has been granted

anticipatory bail by this Court.

4. It is further borne out from the records that as far as earlier case is concerned, which has been registered as Ainthapali P.S. case No. 132 of

2012, the Investigating Officer after completion of investigation has submitted final report. It is stated that the informant has filed a protest petition

therein. Learned counsel for the petitioner, therefore argued relying upon the reported case of T.T. Antony Vs. State of Kerala and Others, and

Amitbhai Anilchandra Shah Vs. The Central Bureau of Investigation and Another, that the second FIR is hit by the fact that the first FIR has been

filed by the same informant. As far as the additional charge of Section 66A of the I.T. Act is concerned, it appears from the FIR filed by the

informant that the informant has filed an FIR before the Sambalpur Mahila Police Station on 29.10.2013 as far as the video clippings of the present

petitioner is concerned. The investigation on the FIR reveals that none of the employees of the petitioner has come forward to claim that the C.D.

or video clippings relate to them and they have not complained regarding the same. In other words, the identity of the women or girl whose

pictures are found in the video clippings cannot be determined. It has come out that the ladies shown in the video clippings are not the employees

of the petitioner. So the second FIR which is under consideration in the Bail Application is also not in the first FIR.

5. In that view of the matter, this Court is of the opinion that the custodial interrogation of the petitioner is not necessary and anticipatory bail

should be granted to him.

6. In the result, the Bail Application is allowed. In the event of arrest of the petitioner in connection with Sambalpur Mahila P.S. Case No. 3 of

2014 corresponding to G.R. Case No. 149 of 2014 pending in the Court of S.D.J.M. Sambalpur, he shall be released on bail on such terms and

conditions as deemed just and proper by the Arresting Officer.

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