

Emanuel Khosla Vs State Of Orissa

Court: Orissa High Court

Date of Decision: July 4, 2023

Acts Referred: Code of Criminal Procedure, 1973 â€” Section 439
Indian Penal Code, 1860 â€” Section 34, 294, 323, 376(2)(n), 498(A), 506
Protection of Children from Sexual Offences Act, 2012 â€” Section 6
Dowry Prohibition Act, 1961 â€” Section 4

Hon'ble Judges: G. Satapathy, J

Bench: Single Bench

Advocate: A. Mishra, S.R. Roul

Final Decision: Disposed Of

Judgement

Ã,

G. Satapathy

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. This is a bail application U/S.439 of Cr.P.C. by the petitioner for grant of bail in connection with Koraput Town P.S. Case No.314 of 2022

corresponding to G.R. Case No.1276 of 2022 pending in the Court of learned Addl. Sessions Judge-cum-Special Court under POCSO Act, Jeypore,

Dist-Koraput for commission of offence punishable under Sections 376(2)(n)/ 498(A)/ 323/ 294/ 506/ 34 of IPC, read with Section 6 of POCSO Act

and Section 4 of D.P. Act, on the allegation of committing rape and aggravated penetrative sexual assault upon the victim and subjecting her to torture

and cruelty after marrying her.

3. In the course of hearing of the bail application, Mr. A. Mishra, learned counsel for the petitioner submits that this is an out and out false case

against the petitioner, since the alleged occurrence took place in the year 2018, but the FIR was lodged in the year 2022 i.e. after a gap of four years

and that too, after marrying the petitioner and the petitioner having already detained in custody since 13.01.2023 with submission of charge-sheet in

this case, there would not be any impediment to grant bail to the petitioner. Accordingly, Mr. Mishra prays to grant bail to the petitioner.

4. On the contrary, Mr. S.R. Roul by placing the statement of the victim, prays to reject the bail application of the petitioner, but on being asked, he

fairly concedes that the FIR has been lodged after four years of the occurrence. None appears for the informant despite being duly noticed.

5. After having considered the rival submissions made and taking into consideration the nature and gravity of accusations raised against the petitioner

and keeping in view the nature and strength of supporting materials available on record and there being delay in lodging FIR for about four years and

taking into consideration the pre trial detention of the petitioner in custody since 13.01.2023 with submission of charge-sheet in the meanwhile, this

Court admits the petitioner to bail.

6. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.50,000/- (Rupees

Fifty Thousand) with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and

conditions as deem fit and proper by it with following conditions:-

(i) the petitioner shall not commit any offence while on bail,

(ii) the petitioner shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with and

(iii) the petitioner shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioner without further reference to this Court, if any of the

above conditions are violated or a case for cancellation of bail is otherwise made out. In the wake of aforesaid, the subsequent involvement of the

petitioner for similar type of offences in future on prima facie accusations may be treated as a ground for cancellation of bail in this case.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

[illegible]