

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.1973 of 2022

**1. Chakradhar Rout
2. Mamata Rout
3. Nalu @ Manoj Kumar
Rout**

.... Petitioners

Mr. P.K. Swain, Advocate

-versus-

State of Odisha

.... Opp. Party

*Mr. A. Das,
Addl. Government Advocate*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
11.05.2022**

Order No.

02. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in connection with G.R. Case No.436 of 2020 arising out of Banki P.S. Case No.313 of 2020 pending in the Court of learned S.D.J.M., Banki for alleged commission of offences under sections 341, 294, 323, 325, 506, 307, 34 of the Indian Penal Code.

Perused the F.I.R.

Learned counsel for the petitioners submits that the petitioners were earlier granted anticipatory bail by this Court in ABLAPL No.15950 of 2020 as per the order dated 01.02.2021 and at that point of time, the offences were under sections 341, 294, 323, 325 and 506/34 of the Indian Penal Code but during the course of investigation, the offence under section 307 of the Indian Penal Code has been added for which the petitioners are apprehending arrest in the case.

In the case of **Pradeep Ram -Vrs.- State of Jharkhand report in (2019) 17 Supreme Court Cases 326**, one of the issues which arose for consideration is as follows:-

"(i) Whether in a case where an Accused has been bailed out in a criminal case, in which case, subsequently new offences are added, is it necessary that bail earlier granted should be cancelled for taking the Accused in custody?"

While answering the issue, it was held as follows:-

"29. In view of the foregoing discussions, we arrive at following conclusions in respect of a circumstance where after grant of bail to an Accused, further cognizable and non-bailable offences are added:

(i) The Accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In event of refusal of bail,

the Accused can certainly be arrested.

(ii) The investigating agency can seek order from the court Under Section 437(5) or 439(2) of Code of Criminal Procedure for arrest of the Accused and his custody.

(iii) The Court, in exercise of power Under Section 437(5) or 439(2) of Code of Criminal Procedure, can direct for taking into custody the Accused who has already been granted bail after cancellation of his bail. The Court in exercise of power Under Section 437(5) as well as Section 439(2) can direct the person who has already been granted bail to be arrested and commit him to custody on addition of graver and non-cognizable offences which may not be necessary always with order of cancelling of earlier bail.

(iv) In a case where an Accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the Accused, but for arresting the Accused on such addition of offence or offences it need to obtain an order to arrest the Accused from the Court which had granted the bail.

30. The issue No. 1 is answered accordingly."

In view of the settled position of law decided by the Hon'ble Supreme Court in case of **Pradeep Ram** (supra), if any coercive steps are taken against the petitioners by the learned Court below, the concerned Court shall take into account the ratio laid down in the aforesaid case and decide the bail application of the

petitioner on its own merit keeping in view that the petitioners have been granted anticipatory bail by this Court in ABLAPL No.15950 of 2020.

Accordingly, the ABLAPL stands disposed of.

A copy of the order be communicated to the concerned Court

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

(S.K. Sahoo)
Judge



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