

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.2761 of 2020

&

ABLAPL No.2759 of 2020

ABLAPL No.2761 of 2020

Sk. Rajesh

.... *Petitioner*

Mr. Dinesh Ray, Advocate

-versus-

State of Odisha

.... *Opposite Party*

Mr. S.K. Nayak, AGA

In ABLAPL No.2759 of 2020

Sk. Murad Mohin

.... *Petitioner*

Mr. Dinesh Ray, Advocate

-versus-

State of Odisha

.... *Opposite Party*

Mr. S.K. Nayak, AGA

CORAM:

MR. JUSTICE D.DASH

ORDER

24.02.2022

Order No.

04. 1. This matter is taken up by video conferencing mode.
2. Since both the bail applications arise out of Colliery P.S. Case No.418 of 2019 corresponding to G.R. Case No.1572 of 2019, are heard together for their disposal by this common order.
3. The Petitioners having been implicated in Colliery P.S. Case No.418 of 2019 corresponding to G.R. Case No.1572 of

2019 on the file of learned S.D.J.M., Talcher for alleged commission of offence under sections 395, of the IPC read with section 25/27 of the Arms Act, have filed this application under section 438 of the Cr.P.C. for their release on bail in the event of their arrest in the said case.

4. Learned counsel for the Petitioners submits that the only material against these Petitioners is the statement of the co-accused persons, who have been arrested at the spot that they had got fire arms from the Petitioners. He further submits that these Petitioners have no such criminal antecedent and the statement of the co-accused persons implicating these Petitioners are nothing but to divert the attention of the Investigating Officer and see that the truth does not come to surface. He further submits that the Petitioners being granted with interim protection by order dated 18.05.2020, they have been abiding by the terms and conditions and have not misused the liberty. In view of all these above when the investigation of the case is complete and charge-sheet has been submitted, he urges for grant of bail to these Petitioners.

5. Learned counsel for the State opposes the move. According to him, the Petitioners having supplied fire arms to the accused persons, who have been arrested in the case, at this stage, their culpability for the said incident squarely stand.

6. Considering the submissions made and on going through the materials as placed as also taking into account the surrounding circumstances, while being not inclined to consider the prayer for grant of anticipatory bail to the Petitioners; this application stands disposed of with an

observation that in the event the Petitioners surrender before the court in seisin of the case and move for their release on bail, the same shall be considered on its own merit; further taking into account the factum of release of co-accused persons on bail and if similarly situated with the Petitioners on the ground of parity and disposed of in accordance with law without being influenced by this order during the first half of the day so as to enable the Petitioner in case necessity so arises, to approach the next higher forum in the second hour for its disposal in course of the day unless there stands any legal impediment.

The case records be transmitted at the cost of the Petitioners.

7. The ABLAPs are accordingly disposed of.
Interim order passed on 18.05.2020 does no more survive.
8. Issue urgent certified copy as per rules.

(D.Dash)
Judge

Himansu