

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.4546 of 2022

Rabindra Roul

....

Petitioner

Ms.Swayamprava Dash, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. M.K.Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.08.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and the learned Additional Standing Counsel. Perused the records.
3. This is an application under Section 438 Cr.P.C. filed by the Petitioner for anticipatory bail.
4. The Petitioner is seeking pre-arrest bail in connection with NDPS Special Case No.01 of 2022, arising out of Special Task Force, Bhubaneswar P.S.Case No. 08 of 2022 pending in the Court of the learned Special Court, Athamallik for commission of offence punishable under sections 20(b)(ii) C of N.D.P.S.Act read with Section 25/27 of Arms Act.
5. It is submitted by the learned counsel for the Petitioner that there is no material to implicate the Petitioner and there exists no prima facie case as alleged against the Petitioner by the prosecution. It is also submitted by the learned counsel for the Petitioner that the transportation of ganja by the Petitioner is totally false. The

Petitioner undertakes to abide by any terms and conditions if released on pre-arrest bail and he undertakes not to tamper with the evidence and cooperate with the investigation and appear before the I.O. as and when required for the purpose of investigation.

6. Taking into consideration the nature of offence and non-availability of the case diary, I am not inclined to exercise any discretion under Section 438 Cr.P.C. in favour of the Petitioner.

7. However, it is observed that the Petitioner, if so advised, may surrender before the learned Special Court, Athamallik in the aforesaid case within three weeks from today. In the event the Petitioner surrenders and moves for bail within the aforesaid period, learned Special Court, Athamallik shall do well to dispose of the bail application of the Petitioner on the same day on merit in accordance with law. Further, while considering the bail application of the Petitioner, learned court in seisin over the matter shall also consider the law laid down by the Hon'ble Supreme Court of India in ***Tofan Singh vs. State of Tamilnadu*** : reported in (2021) 4 SCC 1 and order dated 10.01.2022 in the matter of ***State By (NCB) Bengaluru v. Palluabid Ahmad Arimuta and another (Special Leave to Appeal (Criminal) No.242 of 2022)***. The case diary be made available to the concerned court to facilitate disposal of the bail application of the Petitioner.

8. Accordingly, the ABLAPL stands disposed of.

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

(**A.K. Mohapatra**)
Judge