

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.7645 of 2022

Bimal Moharana & Another ***Petitioners***
Mr.Bidyalok Mohapatra, Advocate

-versus-
State of Odisha ***Opposite Party***
Mr. S.K. Nayak, AGA

**CORAM:
MR. JUSTICE D.DASH**

**ORDER
23.09.2022**

Order No.

02. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. This is the second journey of these petitioners in carrying this application under section 438, Cr.P.C. for their release on bail in the event of their arrest in connection with Colliery P.S. Case No.165 of 2022 corresponding to G.R. No.766 of 2022 pending in the court of the learned S.D.J.M., Talcher for alleged commission of offence under sections 120(B)/379, I.P.C. read with section 12 of the Orissa Mines and Mineral (Prevention of Theft & Smuggling Activities) Act, 1989.
3. Learned counsel for the Petitioners submits that on the earlier occasion as the salient features of the prosecution case had not been placed with reference to the alleged role of these Petitioners, this Court had no occasion to take that those into account and then taking a view that the Petitioners have the involvement in commission of similar type of offences, their prayer for grant of anticipatory bail has been rejected. He

submits that when no such material to connect these Petitioners with the vehicle carrying coal has been collected, their likely arrest and detention of the Petitioners in custody would serve no useful purpose.

4. Learned counsel for the State opposes the move in view of the earlier rejection.

4. Considering the submissions and on going through the nature of accusations; further keeping in view the surrounding circumstances of the case as also concerning the Petitioners, while being inclined to reconsider the prayer for grant of anticipatory bail to the Petitioners, this application stands disposed of with the observation that in the event of arrest of the Petitioners in connection with the aforesaid case, they shall be released on bail by the Arresting Officer on such terms and conditions as the Arresting Officer may deem just and proper with further conditions that they will cooperate with the investigation as and when required for the purpose and will not tamper the evidence. The Petitioners are hereby directed to appear before the Investigating Officer on 11th October, 2022 in between 10.00 am to 2.00 pm and on such other date/s as asked for in order to cooperate with the investigation. In the event, it is ascertained by the prosecution that the Petitioners were involved in commission of similar type of offences; liberty is given to move for cancellation of bail.

Violation of any of the above condition(s) shall entail cancellation of bail.

5. The ABLAPL is accordingly disposed of.

6. Issue urgent certified copy as per rules.

(D. Dash)
Judge

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