

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.8038 of 2022

Krushna Chandra Nayak

....

Petitioners

Mr.N.N.Mohapatra, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr.S.Patra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

20.09.2022

Order No.

05.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application under Section 438 Cr.P.C. filed by the Petitioner for anticipatory bail.
3. The Petitioner is apprehending his arrest for the alleged commission of offence under Sections 147, 148, 324, 326, 307, 302, 120-B/149 of the Indian Penal Code and Section 25 of Arms Act in G.R.Case No.308 of 2017 arising out of Chhatrapur P.S.Case No.131 of 2017 of the Court of the learned Additional Sessions Judge, Chhatrapur.
4. It is submitted by the learned counsel for the Petitioner that the present Petitioner apprehends arrest in connection with the present case as the name of one Krushna Chandra Nayak has been shown as accused in the F.I.R. In the F.I.R. also it is stated that the name of Krushna Chandra Nayak has been reflected as son of Ramesh Nayak, aged about 30 years. It is also submitted that his name is Krushna Chandra Nayak aged about 47 years and his father's name is

Srimanchal Nayak. It is further contended that on such wrong notion the present Petitioner is being harassed by the local Police. Therefore, the Petitioner is apprehending his arrest. He further submits that some of the co-accused persons have already been released on bail by this Court.

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

6. However, it is observed that the Petitioner, if so advised may surrender before the learned court in seisin over the matter in the aforesaid case within three weeks from today. In the event the Petitioner surrenders and motions for bail within the aforesaid period, learned court in seisin over the matter shall do well to dispose of the bail application of the Petitioner on the same day on merit in accordance with law. The case diary be made available to the concerned court to facilitate disposal of the bail of the Petitioner.

7. The learned court below is directed to examine the identity of the present Petitioner. In the event the Petitioner is found to be a different person than the person who has been narrated in the F.I.R. In such eventuality, learned court below shall release the Petitioner on bail on such terms and conditions as the learned Magistrate may deem just and proper in the facts and circumstances of the case.

8. The ABLAPL is accordingly disposed of.

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

(A.K. Mohapatra)
Judge