

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.8062 of 2022

***Guman Prusty @ Prasant Kumar
Paikray***

.... Petitioner

*Mr. Jagannath Patnaik, Sr. Advocate
& Mr. B.S. Rayguru, Advocate*

-versus-

State of Odisha

.... Opposite Party

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

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
11.10.2022**

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners and learned Addl. Standing Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioners for anticipatory bail.
4. On perusal of the record it appears that earlier the present Petitioners had approached this Court by filing ABLAPL No.12982 of 2021, which was not entertained by this Court and the ABLAPL was rejected vide order dated 08.12.2021.
5. Learned counsel for the Petitioners submits that at the time when the previous bail application was filed and it was heard, the investigation in the case was continuing and it was open then.

However, after completion of the investigation and filing of charge-sheet, the present Bail Application has been filed by the Petitioners. He further submits that although initially the case was registered under Section 302/34, I.P.C., however, after completion of the investigation, charge-sheet has been filed under Section 304, I.P.C.

6. Considering the fact that investigation has been completed in the meantime and charge-sheet has been filed, although I am not inclined to grant anticipatory bail to the Petitioners, however the Petitioners is given liberty to surrender before the learned S.D.J.M., Nayagarh in G.R. Case No.558 of 2021 corresponding to Itamati P.S. Case No.136 of 2021 in the first hour within 21 working days hence and move for bail. In such event, the learned Magistrate shall consider the bail application of the Petitioners in the first hour of the day, strictly on the basis of the materials available on record. In case of rejection of the bail application by the learned Magistrate, the Petitioners may move for bail before the higher forum in the second hour of the same day. In that event, the higher forum shall consider and dispose of the bail application of the Petitioners on the same day on merit, strictly on the basis of the materials available on record. Case Diary be made available to the learned courts below as soon as possible to facilitate in disposing of the bail application of the Petitioners on the same day itself.

5. Ground of parity, if canvassed by learned counsel for the Petitioners, may be taken into consideration by the learned courts below as per law, while dealing with the bail application of the Petitioners on merit.

6. The ABLAPL is disposed of accordingly.

7. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge

S.K.Parida

