

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.8555 of 2022

Mirza Moiuddin @ Maiuddin Baig **Petitioner**
Mr. Suryakanta Dash, Advocate

-versus-

State of Odisha **Opposite Party**
Mr. Shashank Patra, A.S.C.

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
29.07.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr. Suryakanta Dash, learned counsel for the Petitioner and Mr. Shashanka Patra, learned Addl. Standing Counsel for the State.
3. The present bail application has been filed under Section 438, Cr.P.C. seeking for Transit Anticipatory Bail from this Court in connection with the Warrant of Arrest issued by the Metropolitan Magistrate, 19th Court, Calcutta, West Bengal in relation to a case registered under Sections 420/406, I.P.C. arising out of the Execution Proceeding, which in turn arises out of C.S. No.72127 of 2018.
4. Learned counsel for the Petitioner, drawing attention of this Court to Annexure-1, which is the Warrant of Arrest, submits before this Court that, pursuant to the said warrant the Petitioner has been directed to appear before the Metropolitan Magistrate, 19th Court, Calcutta, West Bengal on 17.05.2022. Learned counsel for the

Petitioner further submits that the Petitioner apprehends arrest by the Police while approaching the aforesaid Metropolitan Magistrate Court, and in such view of the matter he seeks protection while on Transit.

5. So far as the law relating to granting Transit Anticipatory Bail, Mr. Dash, learned counsel for the Petitioner relies upon the judgment of ***Nikita Jacob vs. The State of Maharashtra***, (*Anticipatory Bail Application No.441 of 2021, decided on 17.02.2021*), ***Teesta Atul Setalvad and Anr. vs. State of Maharashtra and Ors.*** (*Anticipatory Bail Application No.14 of 2014, decided on 31.01.2014*) and ***Amita Garg and 6 Others vs. State of U.P. and 3 Others***, (*Criminal Misc. Anticipatory Bail Application U/s. 438, CR.P.C. No.5286 of 2022, D/d. 6.7.2022 – Allahabad High Court*).

Relying on the aforesaid judgments, learned counsel for the Petitioner submits that this Court is competent to grant protection to the Petitioner while he is in Transit to appear before the Court concerned, having jurisdiction over the subject matter of the dispute.

6. Considering the fact that Warrant of Arrest has been issued in an Execution Proceeding, which arises out of a Civil Suit, this Court deems it proper to give protection to the Petitioner till he approaches the competent court for appropriate remedy under the Cr.P.C. Considering the aforesaid facts and circumstances of the case, this Court directs that, in the event of arrest, the Petitioner shall be released on bail by the Arresting Officer on his executing Personal Bond of Rs.50,000/- (Rupees Fifty Thousand) to the satisfaction of the Arresting Officer. However, it is made clear that this transit bail order shall remain valid for a period of six weeks from today.

7. With the aforesaid direction and observation, the ABLAPL is disposed of.
8. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge

S.K.Parida

