IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.8694 of 2022

Biswajit Sahoo & others .... ***Petitioners***
Mr. Debasnan Das, Advocate

-versus-

State of Odisha & another .... ***Opp.Parties***
Mr.M.K.Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

Order No. **01.08.2022**

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioners and the learned Additional Standing Counsel. Perused the records.

3. This is an application under Section 438 Cr.P.C. filed by the Petitioners for anticipatory bail.

4. It is submitted by the learned counsel for the Petitioners that the Petitioners have no complicity in the alleged crime and the present case has been foisted against the Petitioners only to harass them as they are the relation of principal accused, who is languishing in jail custody.

5. Considering the nature of allegations made, gravity of the offence and the fact of the case, I am not inclined to grant anticipatory bail to the Petitioner Nos.2 & 3. However, it is directed that in the event the Petitioner Nos.2 & 3 surrender before the learned

Special Judge (SC & ST)(POA) Act, Cuttack in C.T.Case No.190 of 2022 arising out of Narsinghpur P.S.Case No.134 of 2022 within a period of three weeks from today and move for bail, they shall be released on bail on such terms and conditions as would be deemed just and proper by the learned Magistrate.

6. The Petitioner No.1 is apprehending his arrest for the alleged commission of offence under sections 376(1), 376(2)(n), 417, 313, 323, 506/34 of the Indian Penal Code along with 3(1)®, 3(1)(s), 3(1)(w)(i), 3(1)(v), 3(2)(va) SC and ST (POA) Act in C.T.Case No.190 of 2022 of the Court of the learned Special Judge (SC & ST) (POA) Act, Cuttack arising out of Narsinghpur P.S.Case No.134 of 2022.

7. 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 No.1.

8. However, it is observed that the Petitioner No.1, if so advised, may surrender before the learned Special Judge (SC & ST) (POA) Act, Cuttack in the aforesaid case within three weeks from today. In the event of his surrender and motion for bail within the aforesaid period, learned Special Judge (SC & ST) (POA) Act, Cuttack shall do well to dispose of the bail application of the Petitioner No.1 on the same day on merit in accordance with law. The case diary be made available in the concerned court to facilitate disposal of the bail application of the Petitioner No.1.

9. The ABLAPL is accordingly disposed of.

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

(A.K. Mohapatra)
Judge

RKS

HIGH COURT
सत्यमेव जयते
ORISSA