

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.9399 2022

Boijayanta Khosla

....

Petitioner

Mr. Satyabrata Mohanty, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. P.K.Rout, A.G.A..

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

08.08.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and the learned Additional Standing Counsel. Perused the records.
3. This is an application under Section 438 Cr.P.C. filed by the Petitioner for anticipatory bail.
4. The Petitioner is seeking pre-arrest bail in connection with Special G.R.Case No.85 of 2021, arising out of Mudulipada P.S.Case No. 65 of 2021 pending in the Court of the learned Sessions Judge-cum-Special Judge, Malkangiri for commission of offence punishable under sections 20(b)(ii) (c),25,27, 29 of the N.D.P.S.Act.
5. It is submitted by the learned counsel for the Petitioner that on the basis of the confessional statement of the co-accused persons the Petitioner has been implicated in this case. It is also submitted by the learned counsel for the Petitioners that nothing has been seized from the possession of the Petitioner. Further it is submitted by the learned

counsel for the Petitioner that co-accused has already been released on bail.

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

7. However, it is observed that the Petitioner, if so advised, may surrender before the learned Sessions Judge-cum-Special Judge, Malkangiri in the aforesaid case within three weeks from today. In the event the Petitioner surrenders and moves for bail within the aforesaid period, learned Sessions Judge-cum-Special Judge, Malkangiri shall do well to dispose of the bail application of the Petitioner on the same day on merit in accordance with law. Further, while considering the bail application of the Petitioner, learned court in seisin over the matter shall also consider the law laid down by the Hon'ble Supreme Court of India in *Tofan Singh vs. State of Tamilnadu* : reported in (2021) 4 SCC 1 and order dated 10.01.2022 in the matter of *State By (NCB) Bengaluru v. Palluabid Ahmad Arimuta and another (Special Leave to Appeal (Criminal) No.242 of 2022)*. The case diary be made available to the concerned court to facilitate disposal of the bail application of the Petitioner.

8. Accordingly, the ABLAPL stands disposed of.

Urgent certified copy of this order be granted on proper application.

(*A.K. Mohapatra*)
Judge