

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.9804 of 2022

Ruben Digal

.... ***Petitioner***
Mr.A.r.Panda, Advocate

-versus-

State of Odisha

.... ***Opp. Party***
Mr. S.Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

17.08.2022

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 C.T.Case No.47 of 2022, arising out of Phiringia P.S.Case No.114 of 2022 pending in the Court of the learned District & Sessions Judge-cum-Special Judge, Phulbani for commission of alleged offence punishable under sections 20 (b)(ii) C of the NDPS Act.
5. It is submitted by the learned counsel for the Petitioner that the witnesses examined by the Police have not stated anything against the Petitioner. It is also submitted by the learned counsel for the Petitioner that the contraband article has been recovered from an abandoned place near road side and nobody was present at the spot at the time of seizure of ganja.

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 District & Sessions Judge-cum-Special Judge, Phulbani in the aforesaid case within three weeks from today. In the event the Petitioner surrenders and moves for bail within the aforesaid period, learned District & Sessions Judge-cum-Special Judge, Phulbani 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.

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

(*A.K. Mohapatra*)
Judge