

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10083 of 2022

Basanta Mohanty

....

Petitioner

Ajaya Kumar Pradhan, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

25.08.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 20(b) of the N.D.P.S. Act.
4. It is submitted by learned counsel for the Petitioner that the Petitioner had earlier approached this Court by filing BLAPL No.14969 of 2010 for bail. This Court vide order dated 16.09.2010 had directed the Petitioner to surrender and move for bail before the learned Spl. Judge, Balasore. However the Petitioner did not surrender. Learned counsel for the Petitioner submits that the petitioner was staying out of the State in connection with some personal works, for which he could not surrender during the period granted by the Court.

5. However, considering such submission of learned counsel for the Petitioner, it is observed that, the Petitioner, if so advised, may surrender before the learned Special Judge, Balasore in Spl. Case No.45 of 2010 corresponding to Simulia P.S. Case No.81 of 2010 within a period of three weeks from today. In the event the Petitioner surrenders and moves for bail within the aforesaid stipulated period, learned Special Judge, Balasore shall do well to dispose of the bail application of the Petitioner on the same day on merit in accordance with law and further keeping in view the fact that the Petitioner was not present at the spot from where the seizure was made. Further, while considering the bail application of the Petitioner, the 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 Vs. Pallulabid Ahmad Arimuta and another (Special Leave to Appeal (Criminal) No.242 of 2022)***. The Case Diary be made available to the concerned court in order to facilitate in disposal of the bail application of the petitioner on the same day.

Ground of parity, if canvassed by the learned counsel for the Petitioner, shall also be taken into consideration by the Special Judge, while considering the bail application of the Petitioner.

6. The ABLAPL is disposed of accordingly.

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

(A.K. Mohapatra)
Judge