

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10107 of 2022

Dukhishyam Behera

....

Petitioner

Mr. Rohit Ranjan Ray, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

19.09.2022

Order No.

02. I.A. No.1540 of 2022

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. Learned counsel for the Petitioner submits that the Petitioner has some more Criminal Antecedents in his name, which he could not submit before this Court on 25.08.2022 due to want of proper instruction from his client (the Petitioner).
4. Keeping in view such submission, Order No.01 dated 25.08.2022 passed in ABLAPL No.10107 of 2022 is hereby recalled, and the following order is passed afresh –
5. This is an application under Section 438, Cr.P.C. for anticipatory bail, involving offences punishable under Sections 379/34, I.P.C.

6. Considering the seriousness of the allegation, gravity of the offence and the facts of the case, although I am not inclined to grant anticipatory bail to the Petitioner, however the Petitioner is given liberty to surrender before the learned S.D.J.M., Khordha in G.R. Case No.187 of 2022 corresponding to Khordha P.S. Case No.54 of 2022 in the first hour within 21 working days hence and move for bail. In such event, the learned Magistrate shall consider the bail application of the Petitioner in the first hour of the day, strictly on the basis of the materials available on record. In case of rejection of the bail application by the learned Magistrate, the Petitioner may move for bail before the higher forum in the second hour of the same day. In that event, the higher forum shall consider and dispose of the bail application of the Petitioner on the same day on merit, strictly on the basis of the materials available on record. Case Diary be made available to the learned courts below as soon as possible to facilitate in disposing of the bail application of the Petitioner on the same day itself.

7. Ground of parity, if canvassed by learned counsel for the Petitioner, may be taken into consideration by the learned courts below as per law, while dealing with the bail application of the Petitioner on merit.

8. The ABLAPL and the I.A. are disposed of accordingly.

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

(A.K. Mohapatra)
Judge