

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7396 of 2021

Biswanath Bhandari

.... ***Petitioner***
Mr. M. Padhy, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
17.02.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the record as well as F.I.R.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in T.R. Case No.41 of 2021 arising out of Jeypore Sadar P.S. Case No.102 of 2021 on the file of learned Sessions Judge-cum-Special Judge. Koraput-Jeypore for the commission of offences punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
5. Learned counsel for the Petitioner submits that the rejection order of the present case was prior to filing of charge-sheet. He further seeks liberty to withdraw the present bail application and move a fresh bail application before the court below after filing of charge-sheet.
6. Further it is made clear that while disposing of the bail

application, learned court below considered the statements keeping in view the ratio laid down by the Hon'ble Supreme Court in the case of **Tofan Singh vrs. State of Tamil Nadu, reported in (2020) 80 OCR (SC) 641.**

7. In such view of the matter, this Court permits the Petitioner to withdraw the bail application of the Petitioner and further liberty is given to the Petitioner to move the court below again by filing a fresh bail application after filing of charge-sheet. In the event a fresh bail application is filed, the same shall be considered on its own merit without being influenced by any other factor.

8. With the aforesaid observation, the bail application stands disposed of.

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

Jagabandhu

