

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10761 of 2022

Iswar Dansana & Others ***Petitioners***
Mr. Pramod Ranjan Behera, Advocate
-versus-
Union of India ***Opposite Party***
Mr. Partha Sarathi Nayak, S.C.(Railways)

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
08.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. On the basis of oral prayer, learned counsel for the Petitioners is allowed to carry out necessary corrections in the cause-title of the bail application in court today, so far as the name of the Opposite Party is concerned.
3. Heard Mr. P.R. Behera, learned counsel for the Petitioners and Mr. P.S. Nayak, learned Standing Counsel for the Railway Department.
4. This is an application under Section 438, Cr.P.C. filed by the Petitioners for anticipatory bail, involving offences punishable under Sections 3(a) of RP(UP) Act,'66272/273/34, I.P.C. and Section 52(a) of the Orissa Excise Act.
5. Learned counsel for the Petitioner submits that Petitioner No.3 has already been arrested in the meantime. Therefore, the bail

application in respect of Petitioner No.3 – Narayan Mahato has become infructuous, which is disposed of accordingly.

6. So far as Petitioner Nos.1 and 2 are concerned, learned counsel for the Railways submits that Petitioner No.1 has four numbers of criminal antecedents including one under Sections 395/397, I.P.C. So far as Petitioner No.2 is concerned, he is having only one criminal antecedent under Section 379/411, I.P.C.

7. Considering such submission, 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 Petitioners, however it is observed that, in the event the Petitioner No. – Jon Khadia surrenders and moves for bail before the learned S.D.J.M., Jharsuguda in 2(C)CC No,392 of 2022 corresponding to RPF Post Jharsuguda Case No.09 of 2022 within a period of three weeks from today, he shall be released on bail on such terms and conditions as the learned Magistrate may deem just and proper in the facts and circumstances of the case, but subject to Petitioner No.2 depositing cash security of Rs.5000/- (Rupees five thousand) to the satisfaction of learned court in seisin over the matter.

So far as Petitioner No.1 – Iswar Dansana is concerned, he is given liberty to surrender before the learned S.D.J.M., Jharsuguda in the aforesaid 2(C)CC Case 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 Petitioner No.1 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, Petitioner No.1 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 No.1 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 No.1 on the same day itself.

8. Ground of parity, if canvassed by learned counsel for the Petitioners, may be taken into consideration by the learned courts below as per law, while dealing with the bail application of Petitioner No.1 on merit.

9. The ABLAPL is disposed of accordingly.

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

(A.K. Mohapatra)
Judge