

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10975 of 2022

Jikhariya Raita

.... ***Petitioner***
Mr.S.K.Dash, Advocate

-versus-

State of Odisha

.... ***Opp. Party***
Mr. P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

12.09.2022

Order No.

- 02.
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 G.R.Case No.13 of 2022, arising out of R.Udayagiri P.S.Case No.14 of 2022 pending in the Court of the learned Special Judge, Gajapati at Parlakhemundi for commission of alleged offence punishable under sections 20(a)(i) of the NDPS Act.
 5. It is submitted by the learned counsel for the Petitioner that the Petitioner does not have criminal antecedent of similar nature. He also submits that the present F.I.R. has been registered against some unknown persons, but he has been falsely implicated in this case by some villagers.
 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 Special Judge, Gajapati at Parlakhemundi in the aforesaid case within three weeks from today. In the event the Petitioner surrenders and moves for bail within the aforesaid period, learned Special Judge, Gajapati 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