

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.11571 of 2022

Gupteswar Kanhar

....

Petitioner

Mr. Tirth Kumar Sahu, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. S.Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.09.2022

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 C.T.Case No.78 of 2021, arising out of Phiringia P.S.Case No.142 of 2021 pending in the Court of the learned District & Sessions Judge-cum-Special Judge at Phulbani for commission of alleged offence punishable under sections 20(b)(ii)(C) of the N.D.P.S.Act, 1985.
 5. It is submitted by the learned counsel for the Petitioner that the Petitioner has been implicated in the present case on the basis of co-accused statement.
 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 District & Sessions Judge-cum-Special Judge at Phulbani in the aforesaid case within three weeks from today. In the event the Petitioner surrenders and moves for bail within the aforesaid period, learned District & Sessions Judge-cum-Special Judge at Phulbani 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)*** and in the matter of ***Sanjeev Chandra Agarwal and another-Vrs. Union of India in Criminal Appeal No. 1273 of 2021..*** 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