

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.11598 of 2022

Sudam Kheti and another *Petitioners*
Mr. S. K.Dwibedi, Advocate
-versus-
State of Odisha *Opp. Party*
Mr. P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

27.09.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the petitioners and learned Additional Standing Counsel for the State.
 3. This is an application under Section 438, Cr.P.C. filed by the petitioners for anticipatory bail.
 4. The petitioners are seeking pre-arrest bail in connection with Special (NDPS) Case No.56 of 2020, arising out of Kantamal P.S. Case No.155 of 2020 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Kantamal for commission of offence punishable under Sections 20(a)(i)/27(1) of the N.D.P.S. Act.
 5. The prosecution case, in a nutshell, is that one Aswini Bhitria, I.I.C.. of Kantamal Police Station on 30.11.2020 lodged a written report F.I.R. before the I.I.C. of Kantamal P.S. alleging therein that on the same day he got information from the reliable sources that

some of the villagers of Beherapada, Dolabali and Rekdol have illegally cultivated cannabis plants in village forest area and Penjore reserve forest. There after a raiding party was constituted and they proceeded to the spot. They found that seeing them three persons including the petitioners, who were engaged themselves in labour work fled away from the spot. The raiding party thereafter uprooted the cannabis plants and destroyed the same.

6. It is submitted by learned counsel for the petitioners that the cannabis plants were cultivated in the forest land and the same was detected by the police party. At the time of raided, the police party found three persons were present at the site. However, on seeing the police party, they fled away from the spot. It is further submitted by the learned counsel for the petitioners that the petitioners were identified by the local Gramarakhia as the persons, who were fled away from the spot. It is also submitted that the petitioners have been falsely implicated in the present case.

7. Further, it is submitted by learned counsel for the petitioners that the cannabis plants were not seized from exclusive possession of the petitioners and that the petitioners do not have any criminal antecedents. It is also submitted that the petitioners were working as daily labours and they may be released on bail and that they shall abide such terms and conditions as fixed by this Court and also they undertake not to tamper with the prosecution evidence while on released on bail. It is also submitted that there is no bar under Section 37 of the N.D.P.S. Act.

8. Considering the nature of allegation, gravity of offence and the fact of the case and surrounding facts and keeping in view the materials placed before this Court, I am not inclined to grant

anticipatory bail to the petitioners. However, it is directed that in the event the petitioners surrender and move an application for bail before the learned court in seisin over the matter within a period of three weeks from today in the aforesaid case, they shall be released on bail on such terms and conditions as would be deemed just and proper with further conditions that :-

- I. The petitioners shall cooperate with the Investigating Officer as and when required for the purpose of investigation; and
- II. they shall not indulge in similar criminal activities while on bail.

Violation of any of the terms and conditions shall entail cancellation of bail.

9. It is further directed that the bail granted to the petitioners is subject to the condition that learned court below shall verify whether the petitioners have any criminal antecedents of similar nature. In the event it is found that the petitioners have any criminal antecedents of similar nature, this bail order shall automatically stand revoked.

10. Accordingly, the ABLAPL is disposed of.

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

(A.K. Mohapatra)
Judge