

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.11779 of 2022

Sagar Malik @ Mallik & another ***Petitioners***
Mr. Suresh Kumar Jena, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. Shashanka Patra, A.S.C.

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
21.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners as well as learned Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioners for anticipatory bail, involving offences punishable under Sections 341/294/324/307/34, I.P.C.
4. Considering the seriousness and gravity of the offence as alleged and the facts of the case, although this Court is not inclined to grant anticipatory bail to the Petitioners, however it is observed that, in the event Petitioner No.2 – namely Tushar Mallick surrenders and moves for bail before the learned S.D.J.M., Jajpur in C.T. Case No.1941 of 2022 corresponding to Mangalpur P.S. Case No.465 of 2022 within a period of three weeks from today, they 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.

While imposing conditions for bail, learned Magistrate shall also impose the following additional conditions –

- (i) Petitioner No.2 shall not threaten, terrorise, ill-treat or harass the Informant and his family members as well as the prosecution witnesses in any manner whatsoever, while on bail by virtue of this order;
- (ii) He shall appear before the I.O. and shall cooperate with the investigation as and when required by the I.O.

Violation of any of the conditions shall entail cancellation of bail of the Petitioner No.2.

5. However, so far as Petitioner No.1 is concerned, he is given liberty to surrender before the learned S.D.J.M., Jajpur in the aforesaid C.T. 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 Petitioner No.1 on the same day on merit, strictly on the basis of the materials available on record. Ground of parity, if canvassed by the learned counsel for the Petitioners, shall be taken into consideration by the learned Courts below while considering the bail application of Petitioner No.1 in accordance with law.

6. The ABLAPL is disposed of accordingly.
7. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge

S.K.Parida

