

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**ABLAPL No.12359 of 2022**

***Jidi Kinihadaka***

....

***Petitioner***

*Mr. Gokulananda Sahu, Advocate*

*-versus-*

***State of Odisha***

....

***Opposite Party***

*Mr. M.K. Mohanty, A.S.C.*

**CORAM:**

**JUSTICE A.K.MOHAPATRA**

**ORDER**

**27.09.2022**

**Order No.**

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 20(a)(i) & 25 of the N.D.P.S. Act.
4. It is submitted by learned counsel for the Petitioner that the present Petitioner along with other co-accused persons are villagers, against whom it is alleged that they were involved in cultivating cannabis plant. He further submits that on the basis of some confidential enquiry, the name of the Petitioner has been added in the present case, and therefore apprehending arrest, the present Petitioner has approached this Court by filing application under Section 438, Cr.P.C. However, learned counsel for the Petitioner submits that

statements of the co-accused persons is not admissible in evidence in view of the judgment of the Hon'ble Supreme Court in the case of ***Tofan Singh vs. State of Tamilnadu*** : reported in ***(2021) 4 SCC 1***.

5. Considering such submission, seriousness of the allegation, gravity of the offence and facts and circumstances of the case, it is observed that, the Petitioner, if so advised, may surrender before the learned Addl. Sessions Judge-cum-Special Judge, Gunupur in T.R. No.146 of 2021 corresponding to Chandrapur P.S. Case No.66 of 2021 within a period of three weeks from today. In the event the Petitioner surrenders and moves for bail within the aforesaid stipulated period, learned Addl. Sessions Judge-cum-Special Judge, Gunupur shall do well to dispose of the bail application of the Petitioner on the same day on merit in accordance with law and further keeping in view the fact that the Petitioner was not present at the spot, from where the seizure was made. Further, while considering the bail application of the Petitioner, the 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 Vs. Pallulabid Ahmad Arimuta and another (Special Leave to Appeal (Criminal) No.242 of 2022)***. The Case Diary be made available to the concerned court in order to facilitate in disposal of the bail application of the petitioner on the same day.

Ground of parity, if canvassed by the learned counsel for the Petitioner, shall also be taken into consideration by the learned Addl.

Sessions Judge-cum-Special Judge, Gunupur, while considering the bail application of the Petitioner.

6. With the aforesaid observation, the ABLAPL is disposed of.
7. Urgent certified copy of this order be granted as per rules.

**(A.K. Mohapatra)**  
**Judge**

S.K.Parida

