

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12474 of 2022

Narendra Swain & Others

....

Petitioners

Mr. Biswajit Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

28.09.2022

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 294/323/354-B/379/427/452/506/34, I.P.C. read with Section 25 of Arms Act, 1959.
4. It is submitted by learned counsel for the Petitioners that the allegation of assault is against co-accused Trinath Bala and Bapina Guru, who assaulted the wife of the Informant by means of iron rod. So far as the present Petitioners are concerned, it is alleged that the present Petitioner No.1 forcibly entered into the house of the Informant by holding a gun and threatened the Petitioner. It is stated

that the Petitioners do not have any Criminal Antecedents in their name.

5. Considering such submission, 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 Nos.2 & 3 – namely Arjun Swain @ Babula and Suman @ Sumanta Swain move for bail before the learned J.M.F.C., Nimapara in G.R. Case No.827 of 2022 corresponding to Balanga P.S. Case No.143 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.

6. However, so far as Petitioner No.1 – Narendra Swain is concerned, he is given liberty to surrender before the learned J.M.F.C., Nimapara in the aforesaid G.R. 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 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.

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

(A.K. Mohapatra)
Judge

S.K.Parida

