

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12506 of 2022

Damburu Kradika & Others

....

Petitioners

Pradip Kumar Sahoo, 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 and learned Addl. Standing Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioners for anticipatory bail, involving offence punishable under Sections 20(b)(ii)(C) & 29 of the N.D.P.S. Act.
4. It is submitted by learned counsel for the Petitioner that the Petitioners have been implicated in this case on the basis of the co-accused statement. He further submits that in view of the decision of the Hon'ble Supreme Court, the same is not admissible in evidence.
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. District Judge, Gunupur in Special T.R. Case No.60 of

2021 corresponding to Muniguda P.S. Case No.71 of 2021 within a period of three weeks from today. In the event the Petitioners surrender and move for bail within the aforesaid stipulated period, learned Addl. District Judge, Gunupur shall do well to dispose of the bail application of the Petitioners on the same day on merit in accordance with law and further keeping in view the fact that the Petitioners were not present at the spot, from where the seizure was made. Further, while considering the bail application of the Petitioners, 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 petitioners on the same day.

Ground of parity, if canvassed by the learned counsel for the Petitioners, shall also be taken into consideration by the learned Addl. Sessions Judge-cum-Special Judge, Malkangiri, while considering the bail application of the Petitioners.

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

(A.K. Mohapatra)
Judge