

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12527 of 2022

Pabitra Pradhan

Petitioner

....
Mrs.Sujata Jena,Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. S.Mishra, A.S.C.

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
29.09.2022**

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner, learned Addl. Standing Counsel for the State. Perused the records.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 20(b)(ii)C & 29 of N.D.P.S.Act.
4. It is submitted by the learned counsel for the Petitioner that the Petitioner was not arrested from the spot and nothing was seized from his conscious possession. The Petitioner has been implicated in the case on the basis of co-accused statement. In view of the law laid down in the case of **Tofan Singh vrs. State of Tamilnadu** : reported in **(2021) 4 SCC 1** the statement made by the co-accused is not

admissible in evidence. It is also submitted by the learned counsel for the Petitioner that the co-accused has already been released on bail.

5. Considering the seriousness of the allegation, gravity of the offence and the facts of the case, although I am not inclined to grant anticipatory bail to the Petitioner, however it is observed that, in the event the Petitioner surrenders and moves for bail before the learned Sessions Judge-cum-Special Judge, Gajapati, Paralakhemundi in G.R.Case No.13 of 2019 arising out of R.Udayagiri P.S.Case No.08 of 2019 within a period of three weeks from today, he shall be released on bail on the same day on such terms and conditions as the learned Magistrate may deem just and proper in the facts and circumstances of the case. Further it is directed that while considering the bail of the Petitioner, learned court shall apply the principle of parity if applicable and also apply the law laid down in the case of **Tofan Singh vrs. State of Tamilnadu** : reported in (2021) 4 SCC 1.

5. The ABLAPL is disposed of accordingly.

6. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge

RKS