

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12600 of 2022

Prabin Bagh @ Bagha and another

Petitioners
Mr. A.N. Pattanayak, Advocate

-versus-

State of Odisha

Opposite Party
Mr. A.P. Das, A.S.C.

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

**ORDER
29.02.2024**

I.A. No.247 of 2024

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Although the matter was adjourned to 07.04.2024 vide order dated 22.02.2022, it appears that the same has been inadvertently typed out. However, on mentioning, the case listed before this Court today and, accordingly, the same is taken up.
3. Heard learned counsel appearing for the Petitioners as well as learned Additional Standing Counsel for the State-Opposite Party.
4. Considering the submissions made, the order dated 29.09.2022 passed in the aforesaid bail application is hereby recalled and in its place the following order is passed:-

ABLAPL No.12600 of 2022

5. Heard learned counsel for the Petitioners and learned Additional Standing Counsel appearing for the State-Opposite Party. Perused the record.

6. This is an application under Section 438 of Cr.P.C. filed by the Petitioners seeking pre-arrest bail in connection with G.R. Case No.23 of 2022, arising out of Pottangi P.S. Case No.03 of 2022, pending in the court of learned S.D.J.M., Koraput, for alleged commission of offences punishable under Sections 147/148/294/323/354/307/379/149 of the I.P.C.

7. Considering the nature of allegation, gravity of offence and the fact of the case, I am not inclined to grant pre-arrest bail to the Petitioners. However, it is directed that in the event the Petitioner No.2 surrenders before the Court in seisin over the matter within a period of four weeks from today and moves an application for bail, the Court in seisin over the matter shall release him on bail in connection with the aforesaid case on such terms and conditions as it may deem just and proper in the facts and circumstances of the case, but subject to verification of criminal antecedent. In the event, the Petitioner No.2 is having more than two criminal antecedents, then this order shall not be given effect to. Further, the Petitioner No.2 be released on bail subject to furnish cash security of Rs.5,000/- (Rupees five thousand) before the Court in seisin over the matter which shall be kept in interest bearing fixed deposit account in the name of the court in any nationalized bank and renewed from time to time till disposal of the case. The said deposit shall be subject to the outcome of the trial.

8. So far Petitioner No.1 is concerned, he is given liberty to surrender before the learned S.D.J.M., Koraput in the aforesaid case in the first hour within 21 working days hence and move for bail. On such event, the learned Magistrate shall consider his application for bail in the first hour strictly on the basis of the materials on record. In case of rejection of the bail application, the Petitioner No.1 may move for bail before the higher forum in the second hour. On such event, the higher forum shall consider and dispose of the bail application of the Petitioner

No.1 on the same day strictly on the basis of the materials on record by maintaining the principles of parity, if applicable.

9. Case Diary be made available to the concerned courts. Records be transmitted to the higher forum at the cost of the Petitioner No.1, if applied for.

10. The ABLAPL is accordingly disposed of.

Issue urgent certified copy of the order as per Rules.

(A.K. Mohapatra)
Judge

Debasis



Signature Not Verified

Digitally Signed
Signed by: DEBASIS AECH
Designation: Secretary
Reason: Authentication
Location: OHC, CUTTACK.
Date: 02-Mar-2024 21:01:53

