

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12773 of 2022

Akash Sethy

.... ***Petitioner***
Amlan Shakti Paul, Advocate

-versus-

State of Odisha

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

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
30.09.2022

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 21(b)/29 of the N.D.P.S. Act.
4. It is submitted by learned counsel for the Petitioner that the Petitioner has been implicated in this case on the basis of co-accused statement. He also submits that in view of the decision of the Hon'ble Supreme Court, the same is not admissible in evidence. He further submits that the Petitioner is a young boy of only 19 years old and he apprehends arrest in this case.
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 1st Addl. Sessions Judge-cum-Special Judge under NDPS Act, Khordha in T.R. Case No.66 of 2022 corresponding to Khurda Model P.S. Case No.354 of 2022 within a period of three weeks from today. In the event the Petitioner surrenders and moves for bail within the aforesaid stipulated period, learned 1st Addl. Sessions Judge-cum-Special Judge under NDPS Act, Khordha 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 1st Addl. Sessions Judge-cum-Special Judge under NDPS Act, Khordha, while considering the bail application of the Petitioner.

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

(A.K. Mohapatra)
Judge