

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13277 of 2022

Uchhaba Mukhi and another

Petitioners

....
Sk.Zafarulla, Advocate

-versus-

State of Odisha

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

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

ORDER

17.10.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners, learned Addl. Standing Counsel for the State. Perused the records.
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) of the N.D.P.S.Act.
4. It is submitted by the learned counsel for the Petitioners that the patrolling party came across contraband ganja kept in plastic jerry bags and found certain persons standing there. While chasing the persons, they could manage to escape from the spot. The Constable identified them as the present Petitioners. It is also submitted by the learned counsel for the Petitioners that the Petitioners are no way involved in the crime and he has been falsely implicated in this case. He further submits that the Petitioners do not have similar nature of criminal antecedents. He also submits that considering the severity of punishment in the N.D.P.S.Act it would not be safe to implicate the Petitioners in the present case only on the

basis of identification by one of the Constable, who is a part of the raiding party.

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 Petitioners, however it is observed that, in the event the Petitioners surrender and move for bail before the learned Additional District Judge, Kantamal in Special (NDPS) Cse No.09 of 2022 arising out of Manamunda P.S.Case No.54 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, but subject to verification of criminal antecedents of similar nature.

While imposing conditions for bail, learned Magistrate shall also impose the following additional conditions –

- (i) The Petitioners shall cooperate with the investigation and appear before the I.O. as and when required by the I.O.;
- (ii) They shall not indulge in similar nature of criminal offence while on bail;
- (iii) They shall appear before the trial court on each and every date fixed.

Violation of any of the conditions shall entail cancellation of bail 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