

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13369 of 2022

Jaya Kumar Majhi

....

Petitioner

Mr. J.K. Mohapatra, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. S. Patra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

18.10.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

Learned counsel for the petitioner is permitted to make necessary corrections in the cause title of the bail application so far as the G.R. Case number is concerned in Court today.

2. The present bail application has been filed by the petitioner under Section 438, Cr.P.C. seeking anticipatory bail in connection with G.R. Case No.1132 of 2022 arising out Bhawanipatna P.S. Case No.430 of 2022 for commission of offences punishable under Section 409, I.P.C.

3. It is submitted by learned counsel for the petitioner that although the petitioner has not been named in the F.I.R., he is apprehending arrest and harassment by the police. It is further submitted by learned counsel for the petitioner that petitioner is A.B.E.O.-cum-BRCC, Bhawanipatna.

4. It is also submitted by learned counsel for the petitioner that the offence is triable by Magistrate First Class. In the aforesaid

context, learned counsel draws attention of this Court to the judgment of the Hon'ble Supreme Court in the case of ***Arnesh Kumar vrs. State Bihar and another*** : reported in (2014) 8 SCC 273. Learned counsel for the petitioner submits that the petitioner apprehends that in the event he appears before the Police Station under Section 41-A, Cr.P.C., he may be arrested by the police.

4. In view of the provisions of law contained in Cr.P.C. under Section 41 and 41-A, Cr.P.C. apprehension of the petitioner is entirely baseless. Further learned counsel for the petitioner also relies upon the judgment of the Hon'ble Supreme Court in the case of ***Satender Kumar Antil vrs. Central Bureau of Investigation and Anr***; reported in ***AIR Online 2022 SC 956*** disposed of on 11.07.2022. Learned counsel for the petitioner also submits that law laid down in the case of ***Arnesh Kumar vrs. State Bihar and another***(supra) has also been referred to and relied upon in the judgment of ***Satender Kumar Antil vrs. Central Bureau of Investigation and Anr***(supra). He further contends that the Arresting Officer is under legal obligation to issue mandatory notice under Section 41-A, Cr.P.C. to the accused.

5. Learned counsel for the State, on the other hand, submits that the I.O. has already complied with the mandatory provision as contained in Section 41-A, Cr.P.C. He further submits that the petitioner is not cooperating with the investigation and also not appearing before the Arresting Officer as and when required for the purpose of investigation.

6. Considering such submission, the petitioner is directed to appear before the Arresting Officer on or before 25th of October, 2022 and cooperate with the investigation. The Arresting Officer is

also directed to comply with the direction issued by the Hon'ble Supreme Court in the *Arnesh Kumar vrs. State Bihar and another*(supra) and in the case of *Satender Kumar Antil vrs. Central Bureau of Investigation and Anr* (supra).

7. In the event the petitioner does not appear as directed by this Court, it is open for the Arresting Officer to proceed against the petitioner in accordance with law. However, in the event the petitioner appears and cooperate with Investigating Officer, the provisions laid down under Section 41-A be followed by the Arresting Officer.

8. The ABLAPL is disposed of accordingly.

Urgent certified copy of this order be granted on proper application.

A free copy of this order be granted to the learned counsel for the State for compliance and communication.

(*A.K. Mohapatra*)
Judge