

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13443 of 2022

Lalmohan Mohanta & another ***Petitioners***
Mr. Byomakesh Tripathy, Advocate

-versus-

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

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
19.10.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners and learned Addl. Standing Counsel for the State.
3. Apprehending arrest by police in a case likely to be lodged by the proposed Informant, the Petitioners have approached this Court for protection under Section 438, Cr.P.C.
4. Learned counsel for the Petitioners submits that although no F.I.R. has been lodged against the Petitioners, but the Petitioners are being harassed by the police, as they are being repeatedly summoned to the P.S. and compelled to sit at the P.S. for hours together.
5. Learned counsel for the State, on instruction, submits that till date no F.I.R. has been registered as yet.

6. Considering such submission and further considering the fact that no F.I.R. has been registered against the Petitioners till date, there is no reason of apprehension of arrest of the Petitioners. However, it is observed that, if any F.I.R. is registered against the Petitioners, in such event the Arresting Officer shall follow the mandatory procedure of Section 41-A, Cr.P.C. in view of the judgment of the Hon'ble Supreme Court in the case of ***Arnesh Kumar vs. State of Bihar and another, (2014) 8 SCC 273***, and shall see if the same ratio is applicable here in this case.

7. With the aforesaid observations, the ABLAPL is disposed of.

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

(A.K. Mohapatra)
Judge

S.K.Parida

