

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13765 of 2022

Sk. Ajit

....

Petitioner

Mr. Jyotirmaya Sahoo, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. Shashanka Patra, A.S.C.

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

25.11.2022

Order No.

03.

1. Heard the learned counsel for the Petitioner and the State.
2. By means of this application, the Petitioner seeks grant of anticipatory bail U/s. 438 Cr.P.C. in apprehension of arrest for his alleged involvement in the offences U/s. 379, I.P.C. and Section 68 of the Odisha Minor Minerals Concession Rules, 2004.
3. It is alleged that on 18.10.2022 at about 5.30 A.M. one Mr. P.L. Behera, S.I. of Police, Model P.S., Khordha, received reliable information that one Tractor was coming from Pubusahi side being loaded with stolen Laterite Stone from the government quarry. He along with other police personnel and two independent witnesses rushed to the spot to verify the veracity of the information. On the way near Jaguleipatna they found one Tractor coming from Pubusahi towards Khordha town and they detained the said Tractor, which was a new vehicle having no registration number, and found the Tractor loaded with Laterite Stones. On seeing the police party, the driver of the Tractor tried to escape from the spot, but was

nabbed at the spot. On interrogation the driver of the vehicle disclosed his identify as Gajendra Nahak and also confessed to have brought 100 numbers of laterite stones from Barasahi Govt. land. As such, the same were seized along with the Tractor from the spot.

4. It is submitted by the learned counsel for the Petitioner that the present Petitioner being the owner of the vehicle, is no way connected to the alleged incident and is not even aware of the fact that his Tractor was engaged in transporting Laterite Stones illegally, if any. He further submits that, in absence of any criminal antecedents of the similar nature, the Petitioner may be considered for bail.

5. Learned counsel for the State on the contrary vehemently opposed the bail application and submitted that the Petitioner is the owner of the Tractor, in which Laterite Stones were illegally transported, and therefore he cannot escape the rigor of law merely on the ground that he is not aware of the above said act of the driver engaged by him.

6. Keeping in view the submission of the parties, the nature of allegations as emerged from the material on record, the circumstances appearing, the seriousness and gravity of the offences, while this Court is not inclined to grant anticipatory bail, the Petitioner is at liberty to surrender before the learned S.D.J.M., Khurda in G.R. Case No.1713 of 2022 corresponding to Khurda Model P.S. Case No.514 of 2022 within three weeks' hence and moves for bail. In such event the learned court in seisin over the matter shall consider the bail application of the Petitioner in the first

hour of the day, strictly on the basis of the materials available on record in its own merit.

7. In case of rejection of the bail application by the learned court, the Petitioner may move for bail before the higher forum in the second hour of the same day. In that event, the higher forum shall consider and dispose of the bail application of the Petitioner on the same day on its own merit strictly on the basis of the material available on record. Case diary be made available to the learned courts below as soon as possible to facilitate disposal of the bail application of the Petitioner on the same day.

8. The ABLAPL is disposed of.

(*Chittaranjan Dash*)
Judge

S.K.Parida

