

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13783 of 2022

Subrat Kuanr

Petitioner
....
Mr. L. Bhuyan, Advocate

-versus-

State of Odisha

Opp. Party
....
Mr. P.S. Nayak, Sr. Penal Counsel for Union of India

**CORAM:
JUSTICE CHITTARANJAN DASH**

**ORDER
03.11.2022**

Order No.

02.

1. Heard learned counsel for the Petitioner and the Union of India represented by Mr. P.S.Nayak.

2. This is an application for bail U/s.438 Cr.P.C. filed by the Petitioners in anticipation of arrest for their alleged involvement in the offences U/s. 3(a) of the R.P. (U.P.) Act in connection with RPF/Post/KDJR Case No.2 of 2022 corresponding to 2(C) CC Case No.1176 of 2022 pending in the court of learned S.D.J.M., Keonjhar.

3. It is alleged that on 11th October, 2022 one M.M. Jagtap IIC, RPF Post Keonjhar filed P.R. before the S.D.J.M., Keonjhar to the effect that during 8th October, 2022 to 11th October, 2022 about 50 pairs of Railway Fish Plates used to joint separate rails valued Rs.75,000/- have been stolen which are under construction of railway track. The

report of D.K. Sabar dated 13th October, 2022 reveals that on the basis of confidential information in the night of 13th October, 2022 on the raid conducted at Naranpur road in the bushy jungle, four persons were coming in the track side in suspicious manner on being surrounded two persons of them could manage to fled away when two persons detained and in course of interrogation they disclosed the name and address and showed plastic gunny bag containing three numbers of railway fish plates used in rail fittings.

4. As the materials belonged to the Indian Railway, they were asked to show the authority or document in support of their position which they failed and they admitted to have removed the same in the past from track for the purpose of selling it to one Duryodhan Sahoo @ Durga as reveals from the call in the mobile on the very date of 5.25 hours. Though they are disposed their associates to be Sanjay Maharana, Bulu Naik of Sagardapatta village. Since the different persons failed to procure any document support of any position three numbers of fish plates were seized. The F.I.R. was drawn and law was set in motion.

5. It is submitted by learned counsel for the Petitioner that the accused has no nexus with the alleged theft and the Petitioner has been implicated on the basis of the statement of the co-accused and accordingly his prayer for bail may be considered.

6. Learned counsel for the Union of India submitted to have taken instruction from the Department which discloses that the present Petitioner is became in row in connection with theft of railway

properties. It is also the instruction that as per the statement of Dinesh Kumar Sahoo the present Petitioner who deals with the business of scraps has sent loaded scraps truck to different parts of the country. It has also revealed from the whatsapp chat and that the stolen railway properties are yet to be recovered while a part has not been recovered in the meantime.

7. The theft of individual property could be one where it can be understood as to the liberty of the person on the prayer for bail. In the instance case the property involved is a public property and the nature of the property stolen allegedly as recovered being fish plates which joined the tracks where open the train moves and removal of fish plates is fatal for the railway that instantly causes accident.

8. Having regard to the fact that the nature of allegation, the seriousness and gravity of the offence which cannot be taken lightly more so one bag has been seized in the instance case that the fish plates, this Court is not inclined to grant anticipatory bail to the Petitioner. In the event, if the Petitioner so desires and surrenders before the court in seisin over the matter within three weeks' hence, the learned court below shall consider the application on its own merit without being influenced by any observations by this Court. However, being alive the nature of offence and the nature of value and the importance of the public property preferably on the same day. 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. Keeping in view the fact that the co-

accused has since been released on bail, the learned court should remain alive the above fact while considering the bail application.

9. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

KC Bisoi

