

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.14196 of 2022

Shaik Ismile

....

Petitioner

Mr. Jyotirmaya Sahoo, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

21.11.2022

Order No.

- 02.
1. Heard the learned counsel for the Petitioner and the State.
 2. By means of this application U/s.438 Cr.P.C., the Petitioner seeks for bail in apprehension of arrest for his alleged involvement in the offence U/s. 379/411/34, I.P.C. and Section 51 of Orissa Minor Minerals Concession Rules read with Section 12 of Orissa Mines and Minerals (Prevention of theft & Smuggling Activities) Act, 1989, in connection with Jankia P.S. Case No.362 of 2022 corresponding to G.R. Case No.1775 of 2022 pending in the court of learned S.D.J.M., Khurda.
 3. Considering the facts and submissions of the parties, seriousness of the allegation, gravity of the offence and the facts of the case, I am not inclined to grant anticipatory bail to the Petitioner. However, the Petitioner, if so chooses, may surrender before the learned S.D.J.M., Khurda in the aforesaid G.R. Case during the first hour within three weeks hence and move for bail. In such event, the learned Magistrate

shall consider the bail application of the Petitioner in the first hour of the day itself, strictly on the basis of the materials available on record. In case of rejection of the bail application by the learned Magistrate, 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 merit, strictly on the basis of the materials available on record without being influenced by any observation made herein by this Court or even presuming it to be a direction in affirmative.

4. 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 itself.

5. Ground of parity, if canvassed by the learned counsel for the Petitioner, shall be taken into consideration by the learned courts below while dealing with the application of bail of the present petitioner.

6. The ABLAPL is disposed of accordingly.

(Chittaranjan Dash)
Judge