

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 14209 of 2022

Subrat Kumar Nath and another* *Petitioners

Ms. Rajalaxmi Biswal, Advocate

-versus-

State of Odisha* *Opp. Party

Mr. Debasis Biswal, ASC

**CORAM:
JUSTICE CHITTARANJAN DASH**

**ORDER
08.12.2022**

Order No.

- 02.
1. Heard learned counsel for the Petitioners and learned the State.
 2. This is an application for bail U/s. 438 Cr.P.C. filed by the Petitioners in apprehension of arrest for their alleged involvement in the offences U/s. 379/411/186/307/34 IPC read with Section 12 of prevention of theft, smuggling and other unlawful activities and Sections 183 & 184 of Motor Vehicles Act.
 3. It is submitted by learned counsel for the State that Petitioner No.2, namely, Biprabara Bai is having one criminal antecedent of similar nature to his credit.
 4. Learned counsel for the Petitioners submits that the Petitioner No.1, namely, Subrat Kumar Nath has no criminal antecedents and has been implicated in the case on the basis of the statement of co-accused persons and as such they may be considered for bail.

5. Keeping in view the submission of the parties, having gone through the nature of allegations as emerged from the material on record and further the circumstances appearing, the seriousness and gravity of the offences, while this Court is not inclined to grant anticipatory bail, the petitioners are at liberty to surrender before the learned J.M.F.C., Bhuban in Bhuban P.S. Case No.437 of 2022 of 2022 corresponding to G.R. Case No.416 of 2022 within three weeks from today and moves for bail. In such event the learned court in seisin over the matter shall consider the bail application of the Petitioners in the first hour of the day, strictly on the basis of the materials available on record in its own merit.

6. In case of rejection of the bail application by the learned court, the Petitioners 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 Petitioners on the same day on its own merit. It is made clear that the learned court below shall not be influenced by any of the observations of this court made herein above in any manner.

7. Case diary be made available to the learned courts below as soon as possible to facilitate disposal of the bail application of the Petitioners on the same day.

8. Court has to apply its own wisdom in dealing with the application for bail. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

B.K Sahoo/AK Pradhan