

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.14458 of 2022

Basir Ahemad

....

Petitioner

Mr. Anirudha Das, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. Sasanka Patra, A.S.C.

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

21.11.2022

Order No.

01.

1. Heard the learned counsel for the Petitioner and the State.
2. By means of this application bail U/s. 438 Cr.P.C., the Petitioner seeks for grant of bail in anticipation of arrest for his alleged involvement in the offences U/s. 379/411/34 of IPC & Section-12 of Orissa Minerals (Prevention of Theft, Smuggling and other unlawful Activities) Act, 1988
3. It is alleged that on 01.11.2022 at about 4.45 AM while the informant and their staffs were performing patrolling duty they found one Tata Truck was coming from Korian side to Khuntuni side in a suspicious manner in high speed. When they gave signal to stop the vehicle, but the driver of the said truck tried to fled away. Thereafter, he along with his accompanying staffs chased the said Truck and managed to caught hold the driver with said vehicle and found the said Truck bearing Regd No. OR-19-G-7415 at Sakti

Sugar Mill. Thereafter they arranged two local witnesses and in their presence, they searched the vehicle and found loaded coal. On being asked, the driver disclosed his name as Rajib Alli of village Kotpala, Dist. Cuttack. On being demand he failed to produce any license or authority towards the transportation of coal and also failed to produce any documents of the said Tata Truck. He further disclosed that as per the direction of the owner of the said vehicle namely Basir Ahemad of village Pankal, Dist. Cuttack, he was loading the illegal coal approximately 18 tons from the deppo at Kaniha and went towards Khuntuni side for selling purpose.

4. It is submitted by the learned counsel for the Petitioner that the present Petitioner being neither the owner of the Tata Truck nor he was present at the spot of occurrence, is no way connected to the alleged incident. 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 was involved in transporting of the coal illegally and he could well manage to escape away from the spot just on the arrival of raid party, and therefore he cannot escape the rigor of law merely on the ground that he was not present at the spot.

6. Considering the submissions of the parties, nature and gravity of the offence, while this Court is not inclined to grant anticipatory bail, it is directed that the Petitioner, if so desires, may surrender before the learned court below in seisin over the matter within three

weeks hence. In such event, the learned court below shall deal with the matter of bail of the Petitioner on its own merit strictly in accordance with law, on the same day itself.

7. The ABLAPL stands disposed of accordingly.

(Chittaranjan Dash)
Judge

B.K Sahoo

