

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.14538 of 2022

Pramod Kumar Nayak

.... Petitioner

Mr. Ashok Jena, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. Shashanka Patra, A.S.C.

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

15.12.2022

Order No.

- 02.
1. Heard the learned counsels for the Petitioner and the State.
 2. By means of this application, the Petitioner seeks grant of bail U/s.438 Cr.P.C. in apprehension of arrest for his alleged involvement in the offence U/s. 272/273/34, I.P.C. and Section 52(a) of Orissa Excise Act, in connection with Khuntuni P.S. Case No.212 of 2022 corresponding to C.T. Case No.602 of 2022 pending in the court of learned S.D.J.M., Athagarh.
 3. It is alleged that one Bikas Sethi, S.I. of Police, Khuntuni P.S. along with other police staff while were performing patrolling and excise raid duty at village Dalua, received information from reliable source that five persons are engaged in the business of country-made ID liquor and preparing 'Pocha' for the purpose of making ID liquor for selling it to the public at Dalua Khanduali area. In order to ascertain the veracity of the information, the police personnel proceeded to the spot along with two independent witnesses and

found five persons were engaged in illegally preparing and selling of the country-made ID liquor and detected 620 liters of damaged 'Pocha' kept in 31 numbers of plastic jerkin each containing 20 liters besides the ID liquor in one container. The police party nabbed the said five persons including the present Petitioner along with the liquor articles.

4. It is submitted by learned counsel for the Petitioner that the present Petitioner has no criminal antecedent of similar nature, whereas the learned counsel for the State submitted that the present Petitioner has one criminal antecedent of the similar nature.

5. Be that as it may, having regard to the nature and seriousness of the allegation, gravity of the offence and the facts and circumstances of the case, while this Court is not inclined to grant anticipatory bail, it is directed that the Petitioner, if so chooses, may surrender before the learned S.D.J.M., Athagarh in the aforesaid C.T. Case during the first hour within three weeks from today 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 as far as practicable, strictly on the basis of the materials available on record and taking into account the fact that one criminal antecedent of similar nature is standing to the credit of the Petitioner.

6. 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 its own 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.

7. Case Diary be transmitted and made available to the learned courts below, at the cost of the Petitioner to facilitate disposal of the bail application of the Petitioner.

8. The ABLAPL is disposed of accordingly.

(*Chittaranjan Dash*)
Judge

S.K.Parida

