

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**ABLAPL No.15375 of 2022**

***Debadatta Kanhar***

.... ***Petitioner***  
*Mr. Amitav Tripathy, Advocate*

***-versus-***

***State of Odisha***

.... ***Opp. Party***  
*Mr. S.N. Das, ASC*

**CORAM:**

**JUSTICE A.K. MOHAPATRA**

**ORDER**

**19.12.2022**

**Order No.**

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
  2. Heard learned counsel for the Petitioner and learned Additional Standing Counsel for the State.
  3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for pre-arrest bail.
  4. The Petitioner is seeking pre-arrest bail in connection with Phiringia P.S. Case No.39 of 2022, corresponding to C.T. Case No.12 of 2022, pending in the court of learned Sessions Judge-cum-Special Judge, Phulbani, registered for alleged commission of offences punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
  5. Taking into consideration the nature of offence and non-availability of the case diary, I am not inclined to exercise my

discretion under Section 438 of Cr.P.C. in favour of the Petitioner.

6. However, it is observed that the Petitioner, if so advised, may surrender before the learned court in seisin over the matter in the aforesaid case within three weeks from today. In the event the Petitioner surrenders and motions for bail within the aforesaid period, learned court in seisin over the matter shall do well to dispose of the bail application of the Petitioner on the same day on merit in accordance with law, by maintaining the principle of parity, if applicable and keeping in view the judgment delivered by the Hon'ble Supreme Court of India in the case of ***Tofan Singh vrs. State of Tamil Nadu*** : reported in ***(2021) 4 SCC 1***. The case diary be made available to the concerned court to facilitate disposal of the bail application of the Petitioner.

7. With the aforesaid observation, the ABLAPL is disposed of.

8. Issue urgent certified copy of the order as per Rules.

