

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.16324 of 2022

Hemananda Sardar

....

Petitioner

Mr.Jateswar Nayak,Advocate

-versus-

State of Odisha

....

Opp. Party

Mr.P.K.Rout, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.12.2022

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 Government Advocate for the State.
 3. This is an application under Section 438 Cr.P.C. filed by the Petitioner for anticipatory bail.
 4. The Petitioner is seeking pre-arrest bail in connection with T.R.Case No.89 of 2020, arising out of Kalimela P.S.Case No.107 of 2022 pending in the Court of the learned Sessions Judge-cum-Special Judge, Malkangiri for commission of alleged offence punishable under section 20(b)(ii) C of 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 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 principles 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 Tamilnadu** : 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.

