IN THE HIGH COURT OF ORISSA AT CUTTACK
ABLAPL No.13841 of 2024

1) Prashanta @ Prasanta Behera ..... Petitioners
2) Yudhistir Behera
3) Ajaya@dibakar Behera
4) Santanu@shantanu Swain
5) Mayadhar Sha
6) Biplab Kumar Behera
7) Bijay Behera
8) Birendra Behera

Represented By Adv. -
Pratap Chandra Mishra

-versus-

State Of Odisha ..... Opposite Party

Represented By Adv. –
Mr. S.K.Parhi, A.S.C.

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA
ORDER

Order No. **11.12.2024**

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).

2. Heard learned counsel for the Petitioners and learned Additional Standing Counsel for the State.

3. The present application has been filed under Section 438 Cr.P.C. for releasing the Petitioners on anticipatory bail. In view of the bar under Section 341/294/323/506/34 of IPC 1860, R/w- Section 3(l)(r),3(l)(s)and 3 (2)(va) of Scheduled Casts and Scheduled Tribes of (Prevention of Atrocities) Act, 1989(Amendment 2015), the present application under Section 438 Cr.P.C. is not maintainable. The provision of Section 438 Cr.P.C. is not applicable to the case registered involving an offence under the S.C. & S.T. Act.

4. Further, this Court has also elaborately discussed the issue in the case of **Pramod Kumar Ray and others-vrs.-State of Odisha,**

reported in **(2017) 67 OCR 309.** In the light of the principle laid down by this Court in **Pramod Kumar Ray** (supra), the present bail application is being disposed of with the following observations.

5. The Petitioners shall surrender before the learned A.D.J.-Cum-Special Judge, Anandapur in connection with Nandipada P.S. Case No-214/2024 dtd.02/07/2024 on or before 10.01.2025. Seven days before the Petitioners surrender before the said Court, they or their counsel shall serve a copy of the bail application or such number of copies of the bail application on the learned Public Prosecutor/Special Public Prosecutor, as required by him, for the purpose of notice to the victim or his/her counsel or dependent.

6. Further, it is directed that on advance intimation the case diary and other relevant materials be made available to the Court in seisin over the matter by the date of surrender. The learned Court in seisin over the matter is further directed to consider the case of the Petitioners in accordance with law and shall dispose of the bail application on the very same day.

7. Till the date of surrender of the Petitioners as stipulated in this order, the Petitioners shall not be arrested in connection with the aforesaid case.

8. The ABLAPL is accordingly disposed of.

9. Issue urgent certified copy as per Rules.

Rubi

(A.K. Mohapatra)

Judge

Signature Not Verified
Digitally Signed
Signed by: RUBI BEHERA
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 13-Dec-2024 10:34:28