IN THE HIGH COURT OF ORISSA AT CUTTACK
ABLAPL No.12202 of 2026
CNR No. ODHC010819752026

Chitrasen Swain ..... ***Petitioner***

Represented by Adv.
- Sahasransu Sourav

-versus-

State Of Odisha ..... ***Opposite Parties***

Represented by Adv. -
Siba Narayan Biswal,
ASC

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

ORDER
23.10.2026

Order No.

01. 1. This matter is taken up through Virtual Mode.

2. Heard learned counsel for the Petitioner and learned Counsel for the State. Perused the records.

3. This is an application under Section 482, BNSS filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 20(b) (ii) C of the N.D.P.S. Act in Spl. G.R Case No.31 of 2026 of the Court of learned District Judge, Balangir arising out of Bolangir Town P.S. Case No.445 of 2026.

4. It is stated by learned counsel for the Petitioner that the Petitioner has neither been named in the FIR nor anything has been recovered from his exclusive and conscious possession. He further submitted that in view of the aforesaid position, the bar under Section 37 would not be attracted to the case of the present

Petitioner. He further contended that the basis of the implication of the Petitioner in the present case is a co-accused statement. In the aforesaid context, referring to the judgment of the Hon'ble Supreme Court in ***Tofan Singh vs. State of Tamil Nadu*** reported in ***(2021) 4 SCC 1***, submitted before this Court that such evidence of the co-accused cannot be used against the present Petitioner as evidence. He further submitted that the Petitioner does not have any similar criminal antecedent. On such ground, learned counsel for the Petitioner submitted that the Petitioner be enlarged on anticipatory bail.

5. Learned counsel for the State, on the other hand, objected to the release of the Petitioner on pre-arrest bail on the ground of gravity and seriousness of the allegation.

6. Furthermore, learned counsel for the Petitioner, at this juncture, submitted that the Petitioner does not want to press this application and seeks liberty to surrender before the court below and move an application for bail.

7. Taking into consideration the nature and gravity of the allegation, further taking note of the fact that the Petitioner was not initially named in the FIR and there is nothing on record to indicate that any contraband article has been recovered from his exclusive and conscious possession, the bar under Section 37 may not be applicable to the case of the present Petitioner. On the request of learned counsel for the Petitioner, the Petitioner is permitted to surrender before the learned court in seisin over the matter within a period of three weeks from today and move an application for bail. In such eventuality, learned court in seisin over the matter shall do well to consider and dispose of the bail application of the Petitioner

on the same day by taking into account the aforesaid observations made by this Court.

8. The case diary as well as the other materials be made available on the date of surrender on an application being filed by the Petitioner prior to his date of surrender along with a copy of today's order.

9. The ABLAPL is disposed of accordingly.

Urgent certified copy of this order be granted as per rules.

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(A.K. Mohapatra)
Vacation Judge

Anil

Signature Not Verified
Digitally Signed
Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa
Date: 24-Oct-2026 19:30:54