



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

**ABLAPL No.9112 of 2024**

**1) Babu @ Baburam Samal**

.....

***Petitioners***

2) Chinmaya Samal

Represented By Adv. –

3) Labanga @ Labangalata Samal

Mr. Debasis Tripathy

*-versus-*

***State Of Odisha***

.....

***Opposite Parties***

Represented By Adv. –

Mr. Samaresh Jena, ASC

**CORAM:**

**THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA**

**ORDER**

**31.08.2024**

**Order No.**

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-Opposite Party. Perused the records.
3. The present application has been filed under Section 438 of Cr.P.C. for releasing the Petitioners on anticipatory bail for alleged commission of offences under Sections 294/323/506/34 of the I.P.C. read with section 3(l)(r)/3(l)(s)/3(2)(va) of SC & ST Act and Section 25(l)(a)/27 of Arms Act. However, in view of the bar contained under Sections 18 as well as 18-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the present application under Section 438 Cr.P.C. is not maintainable. The provisions of Section 438 of



Cr.P.C. is not applicable to the case registered involving an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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 Sessions Judge, Kendrapara in T.R. Case No.206 of 2023, arising out of Aul P.S. Case No.514 of 2023 on or before 23.09.2024. Seven days before the Petitioners surrender before the said Court, 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.

Issue urgent certified copy as per Rules.

**( A.K. Mohapatra )**  
**Judge**

*Debasis*

Signature Not Verified

Digitally Signed  
Signed by: DEBASIS AECH  
Reason: Authentication  
Location: ORISSA HIGH COURT  
Date: 02-Sep-2024 16:02:17

