



IN THE HIGH COURT OF ORISSA AT CUTTACK
ABLAPL No.10592 of 2024

1) Tusaharkanta Swain

.....

Petitioners

2) Satyajit Lenka

Represented By Adv. -

3) Patia @ Dillip Kumar Swain

Ashok Kumar Sahoo

4) Milu @ Debasish Lenka

-versus-

State Of Odisha

.....

Opposite Parties

Represented By Adv. –

Mr.M.K.Mohanty, ASC

CORAM:

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

ORDER

30.09.2024

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the appearing for the Parties. Perused the records.
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 18 & 18-A of the S.C. & S.T. Act, 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 Special Judge-cum District & Sessions Judge, Kendrapara in T.R.Case No.165 of 2024 arising out of Kendrapara Town P.S.Case No.192 of 2024 on or before 5.11.2024 for commission of alleged offences under sections U/Ss.3(1)(r)(s),2()(v) of SC & ST (PA) Act 1989 (Amendment Act 2018) and 109, 117(2), 126(2),296, 3(5), 324(4) of BNS, 2023. Seven days before the Petitioner surrenders 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 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 strictly on the basis of the materials on record.

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.

(A.K. Mohapatra)
Judge



Signature Not Verified

Digitally Signed
Signed by: RAMESH KUMAR SINGH
Reason: Authentication
Location: High Court of Orissa
Date: 03-Oct-2024 11:37:06

