



IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.1260 of 2025

**Arjun Pattanayak @
Kahnu Pattanayak**

....

Petitioner

Mr. D. Nayak, Sr. Advocate
Instructed by
Mr. B. Swain, Advocate

-versus-

Union of India (NCB)

....

Opposite Party

Mr. K. Nayak, CGC

CORAM: JUSTICE V. NARASINGH

ORDER

25.03.2025

Order No.

- 03.** 1. Heard learned senior counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is seeking pre-arrest bail in connection with G.R. Case No.61 of 2024, pending in the Court of learned District & Sessions Judge, Baripada, arising out of **NCB CRIME No.06 of NCB/BBSR 2024** for commission of alleged offences under Section 8-(c) r/w 20(b)(ii)(C), 25, 28 & 29 of the NDPS Act.
3. It is submitted by the learned senior counsel instructed by Mr. B. Swain that the entire allegation is based on the co-accused statement.
4. It is apt to note here that four accused persons were arrested in the case at hand, namely, Ripun



Pradhan, Bainateya Sinigh, Mrutunjay Danga and Babula Chhanda being involved in the transportation of contraband (ganja) to the tune of 150.712 kg.

5. It is submitted by the learned senior counsel that on the basis of statement of co-accused, the Petitioner was called to join the investigation and at that stage, the apprehending arrest, he came before this Court. By order dated 05.02.2025, taking into account that the interim protection was also granted in respect of co-accused persons, who were similarly placed, this Court protected the Petitioner. As per the learned senior counsel, the Petitioner joined the investigation and it is submitted with vehemence that since the basis of allegation is on account of the co-accused statement and as the Petitioner does not have a criminal proclivity, he may be protected by pre-arrest bail.

6. Learned CGC, Mr. Nayak, appears for the NCB opposes such prayer and reiterates the stand taken in his written objection to the ABLAPL.

7. On the basis of materials on record, learned Senior Panel Counsel for the NCB submits that it is borne out from the statement of one co-accused Rikun Pradhan that the contraband was meant to be sold to the Petitioner in Delhi. And, to substantiate the complicity of the Petitioner he refers to two Mobile



Number which is traced to the Petitioner and the CDRs. Since the investigation is at a nascent stage, he opposes the prayer for ABLAPL.

Since the investigation is continuing, this Court refrains from making any observation regarding the prosecution case.

9. It is also apt to note that the co-accused persons who faced similar allegations, approached this Court in ABLAPL No.14967 of 2024 and ABLAPL No.14912 of 202. The same was disposed of by order dated 24.03.2025, as withdrawn.

10. Learned Senior counsel has rightly submitted that merely because the ABLAPL in respect of the co-accused persons have withdrawn, that does not disentitle the Petitioner from pursuing the matter on its own merits taking into account the manner of accusation.

11. The learned senior counsel for the Petitioner relies on the case of **Yash Jayeshbhai Champaklal Shah Vrs. State of Gujarat**, reported in **2022 SCC Online GUJ 271** and in the case of **Amal E and another Vrs. State of Kerala, in Bail Application No.2776 of 2023** disposed of on 13.07.2023. Both the cases relate to the application filed under Section 439 of Cr.P.C. It is indeed unfortunate that the same



were relied upon in the present case which is an anticipatory bail application.

12. Considering the rigors of Section 37(1)(b)(ii) notwithstanding the judgment of the Apex Court in the case of **Tofan Singh vrs. State of Tamil Nadu**, reported in **(2020) 80 OCR (SC) 641** and **the State of Haryana vrs. Samarth Kumar** reported in **2022 Live Law (SC) 622**, this Court is **not inclined** to entertain this application at this stage keeping in view the ABLAPL is an exceptional remedy. In this context this Court refers to the distinction reiterated by the Apex Court between bail and anticipatory bail application in the case of **Devinder Kumar Bansal vs. State of Punjab, 2025 SCC Online SC 488**, and also the judgment of the Apex Court in the case of **State of M.P. vs. Ram Kishna Balothia, (1995) 3 SCC 221**.

13. Accordingly, the ABLAPL stands rejected.

(V. NARASINGH)
Judge

Soumya

Signature Not Verified

Digitally Signed
Signed by: SOUMYA RANJAN SAMAL
Reason: Authentication
Location: High Court of Orissa
Date: 26-Mar-2025 18:31:21

