

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.4068 of 2023

Aniket Mishra

....

Petitioner

Mr. Manas Kumar Chand, Advocate

-versus-

State of Odisha

....

Opposite Parties

Mr. Debasish Biswal, A.S.C.

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

05.05.2023

Order No.

01.

1. Heard the learned counsel for the Petitioner and the State.
2. By means of this application, the Petitioner seeks grant of bail U/s.438 Cr.P.C. in apprehension of arrest for his alleged involvement in the offences U/s. 147/148/153-A/436/149, I.P.C. in connection with Sambalpur Town P.S. Case No.126 of 2023 corresponding to G.R. Case No.899 of 2023 pending in the court of the learned S.D.J.M., Sambalpur.
3. It is alleged against the Petitioner and as reveals from the F.I.R. that on 14.04.2023 on the occasion of Hanuman Jayanti a procession was taken up at Sambalpur Town. While the procession was in progress, some miscreants ransacked the New Alishan Shoe Centre near Gole-Bazar , Sambalpur Town. The miscreants also set ablaze the shop. In course of the enquiry it was ascertained that about 50 persons, taking advantage of the huge gathering in the procession of Hanuman Jayanti, attacked the New Alishan Shoe Centre, who were also shouting abusive and provocative slogans attributing to the

minority communities, thereby creating outrage to the religious feelings of the Muslim community, giving rise to communal disharmony.

4. The present Petitioner being one amongst those miscreants, who led the group, who had previously conspired to attack the shops and residential houses of the Muslim community in retaliation to the incident that had happened during the bike-rally taken up by the Hanuman Jayanti Seva Samiti on 12.04.2023. It is further alleged that the situation became so alarming and out of control that curfew was imposed in the entire locality (Sambalpur Town).

5. It is submitted by the learned counsel for the Petitioner that the Petitioner had no role in the alleged incident and he has been falsely implicated in this case. There is also nothing in the FIR to implicate him in the offences alleged.

6. Learned counsel for the State on the other hand submitted that the matter in issue is not only sensitive but the situation is not yet clear in the locality, and there being materials against the Petitioner prima facie attributable against him to have led the mob, the petitioner should not be granted bail. The allegations made in the FIR substantially attribute the offences against the Petitioner.

7. As reveals from the F.I.R., the incident occurred in connection with Hanuman Jayanti while the procession being taken and the incident is one out of the retaliation to the incident that occurred just three days before the Hanuman Jayanti on 14.04.2023. The name of the present Petitioner along with others finds place in the F.I.R., who led the mob and attacked the shops as well as the residential houses of the Muslim community. A judicial notice can also be taken of the fact that a riot took place thereafter leading to arson and bloodshed.

8. Pre-arrest bail being an extra ordinary discretionary power cannot be granted in routine. There is nothing in the F.I.R. that the Petitioner holds a prestigious position so as to draw an inference that in a situation of this kind a case could have been hatched against him in order to defame him. Nothing also appears from the ground propounded by the Petitioner in his prayer for pre-arrest bail showing him to be a person having clean image or a man of standing repute, the custodial interrogation whereupon would tarnish his image. On the contrary, grant of pre arrest bail vis-à-vis the allegations made in the F.I.R. will have a great ramification when the situation is volatile and as such it is not desirable to allow pre-arrest bail in favour of the Petitioner before he is subjected to investigation/interrogation.

9. In the aforesaid facts and circumstances, having regard to the nature of the allegation against the Petitioner, seriousness and gravity of the offence, this Court is not inclined to grant anticipatory bail to the Petitioner.

10. The prayer for bail accordingly stands rejected and the ABLAPL is dismissed.

(Chittaranjan Dash)
Judge

S.K. Parida