IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.93 of 2022

Prajna Prakash Nayak .... ***Petitioner***

Mr. D. Nayak, Sr.Advocate,
Mr. B. Nayak, Advocate

-versus-

State of Odisha .... ***Opposite Party***

Mr.S. K.Nayak,
Addl. Standing Counsel

Mr.M. Kanungo, Sr. Advocate
(for informant)

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
25.3.2022.

Order No.

06. 1. This matter is taken up through hybrid mode.

2. The Petitioner is in custody since 4th December, 2021 in connection with Lingaraj P.S. Case No.324/2021 corresponding to C.T. Case No.6667/2021 pending in the court of learned S.D.J.M., Bhubaneswar for the alleged commission of the offences under Sections 420/465/467/468/471/120-B of the I.P.C.

3. The prosecution case, briefly stated, is that one Saikat Kumar lodged F.I.R. on 3rd December, 2021 at Lingaraj Police Station stating that at the instance of the Petitioner he had entered into a business arrangement with him in course of which he paid a sum of Rs.2,35,80,000/- through Bank transfer and cash payment on different dates. The said payment was made for the purpose of buying 50% stakes in Pfour Associates LLP belonging to the Petitioner as also for involving him in the 'Faceless Appeal Scheme'. The Petitioner had supposedly stated that he is the son-in-law of the RBI Governor Shri Shaktikanta Das and close associate of Sri Pramod Kumar Mishra, the Principal Secretary to the Prime Minister of India. He also stated that he is close to Mrs. Anuja Sarangi, Member of CBDT. The informant believed the Petitioner's assurances on good faith and transferred the aforementioned amount to him. Subsequently, when the informant contacted the Petitioner for transfer of the shares and other services, the Petitioner started avoiding him and ultimately stopped responding to his numerous messages. As such, the informant came to know that he had been duped by the Petitioner to the tune of Rs.2,35,80,000/-. In course of investigation, the Petitioner was taken into custody and forward to the court of learned S.D.J.M., Bhubaneswar. His application for bail being rejected, he moved the Court of learned Addl. Sessions Judge-cum-Special Judge, CBI Court No.1, Bhubaneswar for bail, but the same was also rejected. As such, the Petitioner has approached this Court for bail.

4. Heard Mr. D.Nayak, learned Senior counsel along with Mr. B. Nayak, learned counsel for the Petitioner, Mr. S. K.Nayak, learned Addl. Standing Counsel and Mr. M. Kanungo, learned Senior counsel for the informant.

5. Learned Senior counsel Mr. Nayak argued that the informant is himself a fraudster having several cases against him at different places. The amounts said to have been transferred by the informant to the Petitioner are fees towards professional services as evident from the receipts granted by the informant himself and enclosed to the Bail Application under Annexure-4 series. It is further submitted that the informant had handed over two cheques each for Rs.3.5 crores, but on his request the Petitioner had not encashed the same and when the Petitioner requested him several times to arrange funds for clearance of the cheques, the informant is said to have avoided. As such, lawyer's notices were issued on behalf of the Petitioner to the informant, copies of which are enclosed as Annexure-3 series. On the above basis, learned Senior counsel submits that this is basically a civil dispute arising out of violation of agreement by the informant himself and only to cover up his own misdeeds, he has foisted this case against the Petitioner.

6. Mr. S.K. Nayak, learned Addl. Standing Counsel has opposed the prayer for bail. He contends that there is clear proof of transfer of funds to the tune of Rs.2,35,80,000/- from the informant to the Petitioner's account on various dates.

Further, the investigation conducted so far has revealed the fraudulent intention of the Petitioner. In any case, investigation is still in progress as the Petitioner's antecedents are also being looked into.

7. Mr. M. Kanungo, learned Senior counsel, has vehemently opposed the proper for bail. He argues that the Petitioner is a habitual offender being involved in several similar cases at different places of the country. Since, it is clearly proved from the materials on record that the informant had transferred a huge amount to the Petitioner at the latter's insistence without the corresponding fulfillment of promise of transfer of shares etc., it amounts to a clear case of cheating. Mr. Kanungo further argued that the documents enclosed as Annexures-3 and 4 series have been forged by utilizing the blank paper signatures and seal of the informant.

8. As it appears, the fact of transfer of Rs.2,35,80,000/- from the informant to the Petitioner's account is not seriously disputed. It is also admitted by the Petitioner that he had received two cheques for Rs.3.5 crores for transfer of 50% stake in his Company for which an agreement was also signed. Though it is stated that more than Rs.1 crore was paid by the informant towards professional fees, yet it is not clarified as to what services had been rendered by the Petitioner to justify payment of such amount. That apart, investigation into the case is still in progress. This is a case of fraud involving a huge

amount i.e., more than Rs.2.3 crores. The case diary and other materials on record reveal that investigation has been/is being conducted from multiple angles and, therefore, it can be reasonably expected that some further material/evidence may be unearthed thereby. Law is well settled that in case of economic offences the matter of bail has to be visited with a different approach. The Hon'ble Supreme Court in the case of ***Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation;*** reported in (2013) 7 Supreme Court Cases 439, has observed as under:-

> *"Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
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> *While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."*

9. Thus, taking into consideration all the above facts and particularly the fact that investigation is still in progress, this

Court is not inclined to allow the prayer for bail. The Bail Application, therefore, stands rejected.

(Sashikanta Mishra)
Judge

AKB