

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.710 of 2022

Suman Chattopadhyay

....

Petitioner

Mr. Devashis Panda, Advocate

-versus-

Republic of India (C.B.I.)

....

Opp. Party

Mr. Sarthak Nayak,

Learned Special Counsel for the C.B.I.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

24.09.2022

Order No.

I.A. No.1679 of 2022

- 18.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Although this matter was not listed today, however, on being mentioned before the Hon'ble Chief Justice Court and as per direction of Hon'ble Chief Justice Court the matter is being taken up on special notice.
 3. Heard Mr. Devashis Panda, learned counsel appearing for the petitioner and Mr. Sarthak Nayam, learned Special Counsel appearing for the C.B.I.
 4. The ABLAPL No.710 of 2022 was filed by the present petitioner with a prayer to release him on anticipatory bail in

connection with C.B.I./E.O.-IV/Kolkata R.C. Case No.31(S) of 2014-Kol corresponding to PMLA Case No.148 of 2019 pending before the Designated PMLA Court, Bhubaneswar for commission of offence punishable under Sections 120-B/406/420, I.P.C. read with 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

5. The above noted anticipatory bail application was finally heard and disposed of vide order dated 20.09.2022. A Coordinate Bench of this Court presided over by Hon'ble Justice S. Pujahari after hearing the bail application of the petitioner was not inclined to release the petitioner on pre-arrest bail. However, while disposing of the bail application a direction was given to the petitioner to appear before the C.B.I. in compliance to the notice dated 17.01.2022 given by the C.B.I. pursuant to the direction of the Hon'ble Supreme Court vide its order dated 08.12.2021 in Special Leave Petition to Appeal(Criminal) No.6738 of 2021. While disposing of the aforesaid matter, Hon'ble Supreme Court had observed as follows:-

“In case, the C.B.I., which is otherwise not concerned with the case registered by the Enforcement Directorate, intends to proceed against the petitioner in connection with the PMLA Case No.148/2019” must also give 48 hours advance notice to the petitioner in that regard.”

In view of the aforesaid direction of the Hon'ble Supreme Court, the Coordinate Bench of this Court vide order dated 20.09.2022 directed the petitioner to appear before the C.B.I. in compliance to the aforesaid direction of the Hon'ble Supreme Court for the purpose of interrogation not later than 6.00 P.M. of next Friday i.e. 23rd of September, 2022. Further it was directed that if the interrogation is not concluded within 24 hours on such appearance and the C.B.I. feels his further custodial interrogation is necessary, it must follow the provisions under Sections 57 and 167 of the Cr.P.C. and produce the petitioner before the jurisdictional Magistrate / Court at Bhubaneswar i.e. place where the aforesaid case is pending. While disposing of the aforesaid bail application, the Coordinate Bench of this Court has also given several other directions to be followed by the Court in seisin over the matter.

6. After disposal of the bail application, the analogous I.A. No.1566 of 2022 was also disposed of vide order dated 20.09.2022. In the I.A., the Coordinate Bench of this Court was pleased to dispose of the I.A. as infructuous as the ABLAPL was also disposed on the same day. However, while disposing of the I.A., this Court after hearing learned counsel for the parties, after pronouncement of order in the bail application and further taking into consideration the

prayer of the learned counsel appearing for the petitioner was pleased to modify the order dated 20.09.2022 by directing as follows:-

“.....this Court directs the petitioner to appear before the C.B.I. not later than 6.00 P.M. Saturday i.e. 24th of September instead of 23rd of September, 2022 vide 6.00 P.M. as directed in the said order passed in ABLAPL disposed of today”

7. After disposal of the ABLAPL application as well as analogous I.A., another I.A.No.1679 o 2022 has been filed by the petitioner on 22.09.2022. However, the matter has been listed today for consideration of the said I.A. The I.A. has been filed seeking extension of time as has been fixed by this Court by order dated 20.09.2022 to appear before the C.B.I. not later than 6.00 P.M. Saturday i.e. 24th of September, 2022 and it has been prayed that the time fixed by this Court be extended by modifying the order dated 20.09.2022 to the extent that the petitioner now be permitted to appear before the C.B.I. on 15th of October, 2022.

8. Mr. Panda, learned counsel appearing for the petitioner submits that after disposal of the anticipatory bail application of the petitioner vide order dated 20.09.2022, the petitioner has approached the Hon'ble Supreme Court challenging the order passed by this

Court in the ABLAPL application of the petitioner. He further submits that the SLP(Criminal) has already been filed before the Hon'ble Supreme Court and the matter is likely to be taken up within a couple of weeks. In such view of the matter, Mr. Panda, urged before this Court that the order dated 20.09.2022 directing the petitioner to appear before the Investigating Officer, C.B.I. on 24.09.2022 i.e. (today) be extended and the petitioner be allowed to appear before the Investigating Officer, C.B.I. on 15th of October, 2022 by suitably modifying the order dated 20.09.2022. He further contends that lawyers engaged by the petitioner to conduct the case before the Hon'ble Supreme Court are trying their best for an early listing of the matter. He further contends that unless the order dated 20.09.2022 is suitably modified and the time to appear before the Investigating Officer, C.B.I. is extended as prayed for by learned counsel for the petitioner, the petitioner would be seriously prejudiced.

9. Per contra, learned counsel appearing for the C.B.I. submits that the notice which was issued to the petitioner by the C.B.I. is a step in furtherance of the order of the Hon'ble Supreme Court dated 08.12.2021, the relevant portion of which has been quoted in the preceding paragraph. He further contends that pursuant to the

direction of the Hon'ble Supreme Court vide order dated 08.12.2021, the petitioner was served with a 48 hours notice on 17.01.2022. Thereafter the petitioner immediately approached this Court by filing ABLAPL application on 19.01.2022. Further the matter was listed for orders on the very same day directing the learned Sessions Judge concerned to send the scanned entire copy of the order-sheets in CMC(PMLA) Case No.45 of 2017 and PMLA No.148 of 2019 by email. Thereafter the matter was listed on 03.02.2022. After hearing learned counsel for the parties, the Coordinate Bench of this Court was pleased to pass an interim order directing the C.B.I. not to arrest the petitioner in connection with C.B.I./E.O.-IV/Kolkata R.C. Case No.31(S) of 2014-Kol corresponding to PMLA Case No.148 of 2019 pending before the Designated PMLA Court, Bhubaneswar subject to condition that the petitioner shall cooperate with the investigation.

10. Mr. S. Nayak, learned Special Counsel for the C.B.I. submits that since the petitioner was protected by this Court by an interim order, the notice dated 17.01.2022 issued pursuant to the order of the Hon'ble Supreme Court dated 08.12.2021 passed in SLP(Crl.) No.673 of 2021 could not be given effect to. With the aforesaid contentions, learned counsel appearing for the C.B.I. opposes the prayer of the learned counsel for the petitioner for modification of

order dated 20.09.2022 for extension of time till 15th of October, 2022.

11. Having heard learned counsel for the parties and upon careful examination of the record and the materials placed before this Court, this Court is of the considered view that the notice dated 17.01.2022 which was issued by the C.B.I. intimating the petitioner to appear before the C.B.I. for interrogation within 48 hours has already spent its force with the passage of time. Therefore, after disposal of the bail application, the C.B.I. is required to issue a fresh notice giving 48 hours time to the petitioner to appear before the Investigating Officer, C.B.I. for interrogation pursuant to the order dated 18.12.2021 passed in SLP (Crl.) No.673 of 2021. So far the prayer of the petitioner for modification of order dated 20.09.2022 and extension of time till 15th of October, 2022 are concerned, this Court is also of the considered view that in view of order dated 08.12.2021 passed by the Hon'ble Supreme Court, it is no more open to this Court to extend the time limit as has been prayed for by the petitioner to appear before the C.B.I. for the purpose of interrogation.

12. However, considering the aforesaid facts and circumstances, the present I.A. is being disposed with the direction to the C.B.I. to give a fresh notice of 48 hours to the petitioner in consonance with

the order of the Hon'ble Supreme Court dated 08.12.2021 and the petitioner is directed to appear before the Investigating Officer C.B.I. for the purpose of interrogation pursuant to the aforesaid notice, if any, to be issued by the C.B.I.

13. In such view of the matter, the I.A. is disposed of with the aforesaid modification. However, other conditions/directions issued by the Coordinate Bench of this Court in its order dated 20.09.2022 shall remain intact.

14. With the aforesaid direction, I.A. stands disposed of.

Urgent certified copy of this order be granted on proper application.

A free copy of this order be handed over to the learned counsel for the C.B.I. for communication and compliance.

(A.K. Mohapatra)
Judge