IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.2511 of 2021

Narayan Mohapatra	....	***Petitioner***
	-versus-	
State of Odisha	....	***Opposite Party***

CORAM: JUSTICE S.PUJAHARI

ORDER
03.08.2022

Order No.

10. 1. This matter is taken up through Hybrid mode.

2. The Petitioner apprehending his arrest in Badagada P.S. Case No.56 of 2021 registered for alleged commission of offences punishable under Sections 420/409/471/468 IPC, has filed this petition for his release on pre-arrest bail.

3. Heard the learned counsel for the Petitioner and the learned counsel for the State.

4. The allegation of the prosecution is that the Petitioner is the owner of IDBI Capital Franchise and dealing with the funds of the Informant. In such capacity, he collected huge amount of money from the Informant for investment in different companies. When the Informant did not receive any emails, he made an inquiry of the same to which the Petitioner stated that due to technical error, he was not receiving any emails but assured him to return of his money. Thereafter, when the Informant asked the Petitioner to pay back Rs.10 lakhs from

such investments to purchase a new vehicle, the Petitioner did not give proper answer to him. The Informant being suspicious of the answer of the Petitioner went to the IDBI Capital Head Office wherein it is stated that he has suffered a huge loss on his investment and his current holding is Rs. 8 lakhs only. But subsequently the Informant came to know that his KYC has been changed with a false signature of him and trading has been done unauthorizedly by using fake email and telephone number in the absence of his consent by the present Petitioner. Hence, the FIR was lodged. The Police on investigation found that the ID of the Informant has been changed and in the new phone number, fraud ID has been opened through which the trading has been allegedly done by the present Petitioner.

5. According to the Investigating Agency, the following materials have emerged against the Petitioner during the investigation:-

> "(i). The complainant Prof. Kishore Chandra Panigrahi has been working as Professor at NISER, Jatani Bhubaneswar whereas the accused Narayan Mohapatra used to run share trading. There was good relationship between Complainant Kishore Chandra Panigrahi and accused Narayan Mohapatra. The accused Narayan Mohapatra identified himself as a Franchise holder of IDBI Capital and he is doing share trading business.
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> (ii) Taking advantage of good relationship the accused Narayan Mohapatra with an intention to cheat the Complainant, dishonestly induced him to open a trading account for share trading with an assurance for incur huge profit. The Complainant could not able to know the deceitful intention of the accused and agreed on the proposal of opening share trading Demat account in IDBI Capital.

(iii) On 16.12.2016, the accused Narayan Mohapatra open a trading account in IDBI Capital, Lewis Road Branch, Bhubaneswar vide A/C No.3370400015 with registered mobile number is 9439863130 and email id- panigrahi@niser.ac.in in the name of the complainant.

(iv) While opening the account the accused Narayan Mohapatra cunningly took few signatures of Complainant Prof. Kishore Chandra Panigrahi on blank Bank forms for opening of a demat trading account.

(v) In the month of January, 2021, the Complainant was bare necessary to purchase a car for which he approached the accused Narayan Mahapatra to provide update regarding his trading account and balance money in his account. But the accused Narayan Mohapatra did not respond to complainant and played hide and seek to avoid the complainant. Finding no other alternative, the complainant went to IDBI Capital Lewis road Branch, Bhubaneswar.

(vi) The Complainant was shocked to know from the Branch Head of IDBI Capital Lewis Road that there was only 8 lakhs in his trading account. He was further informed that there is a loss of around 32 lakhs in his trading account. After going through the transactions the Branch Head informed the complainant that the accused Narayan Mohapatra has deliberately made the trading even there was frequent loss but the accused Narayan Mohapatra earned rupees around 11 lakhs as brokerage charges.

(vii) On further clarification from the IDBI Capital, it was ascertained that the accused Narayan Mohapatra changed the KYC of the Complainant Prof Kishore Chandra Panigrahi. The accused changed RMN (Registered Mobile Number) of Complainant i.e. mobile number-9439863130 to mobile number 9178389596 and email id- panigrahi@niser.ac.in of complainant to Kch9panigrahi@yahoo.com. For which the complainant was not able to receive any update regarding his transactions/trading.

(viii) From the documents provided by the Head Office, IDBI Capital Mumbai as sought by the Investigating Officer, it was clarified that, the original Mail ID which has been submitted by the Complainant during the time of opening of Demat account and the mobile number has been changed pursuant to modification form which has been received by the Head Office of IDBI Capital Mumbai through Courier. The new and fake mail ID is Kch9panigrahi@yahoo.com and Phone Number is 9178389596 which is not belongs to complainant Prof Kishore

Chandra Panigrahi. As per statement of Complainant he has not modified his original email ID and phone number and also modified mail ID and phone number is not belongs to Complainant. New modified phone number is 9178389596. And it came to light that One Rajkishore Nayak is the actually Franchise holder and accused Narayan Mohapatra one of the employee of the franchise but phone number of accused Narayana Mohapatra has been mentioned in IDBI capital instead of Rajkishore Nayak.

(ix) From the documents provided by yahoo IMC as sought for by the Investigating Officer regarding alleged mail ID i.e. Kch9panigrahi@yahoo.com and received the same. On perusal it is ascertained that during the time of opening the alleged mail id verified phone number is 9777399742 which is belongs to accused Narayan Mohapatra and mention date of birth is 1969-09-10 which is not belongs to Complainant and it came to light that alleged accused Narayan Mohapatra prepared the yahoo mail ID in the name of Complainant and used as a genuine and cheated to Complainant to a tune of rupees 32 lakhs.

(x) During investigation the I.O has gathered that the authorized person registered with IDBI Capital in BSE and NSE is Mr. Rajkishore Nayak. The accused Narayana Mohapatra is an employee under the dealer Mr. Rajkishore Nayak's office. Narayan Mahapatra is not registered as authorized person with IDBI. But he identified himself before complainant as a franchise holder of IDBI Capital to deal with share trading. The accused had the intention of cheating the complainant.

(xi) The accused Narayan Mohapatra caused wrongful loss to the complainant Prof Kishore Chandra Panigrahi and wrongfully gained himself by trading though it was in loss repeatedly. No information was received by the complainant as his registered mobile number and email ID were changed by the alleged accused Narayan Mohapatra.

(xii) It is further ascertained that accused Narayan Mohapatra has done a mail to Subash.p@idbicapital.com who is the head of the IBDI Capital Bombay for future and segment Activation/Client code- 3370400015 by using fake mail ID and also it has been changed for future segment for which the accused Narayana Mohapatra can get more broker charges.

(xiii) From the case diary, seizure documents as well as statement of the complainant and witnesses and investigation of the I.O it is clear that accused Narayan Mohapatra cheated

> around 32 lakhs to the complainant Kishore Chandra Panigrahi by trading and the accused persons Narayan Mohapatra and Rajkishore Nayak got brokerage charge around 11 lakhs."

For the aforesaid, the prayer for pre-arrest bail of the Petitioner is liable to be rejected.

6. However, learned counsel for the Petitioner submitted that the investigation of the aforesaid case has not been done properly. The Petitioner has not done any mischief; rather the Petitioner who is a Financial Advisor had given financial advised for investment of the money to the Informant from time to time. Basing on the same, the Informant had gained a lot of money by investing the money in different companies. When in the subsequent investment he incurred loss, this case has been falsely foisted against him. The Police has collected all the relevant materials. The Petitioner is ready and willing to cooperate with the investigation. In such premises, the Petitioner be released on pre-arrest bail as it may deem just and proper.

7. In response, learned counsel for the State drawing the notice of the Court to the aforesaid materials collected during investigation submitted that the allegation is serious in nature. The Petitioner has played fraud and forgery. Without consent of the Informant, the Petitioner had invested the money in different companies as such the hard-earned money of the Informant was lost in the investment. The Petitioner was the gainer for such investment. The Petitioner is likely to abscond, if released on pre-arrest bail. Therefore, the Petitioner should

not be released on pre-arrest bail, submitted the learned counsel for the State.

8. It is not disputed that the Petitioner has been interrogated. So also the Petitioner is a permanent resident of Odisha.

9. Taking note of the aforesaid facts and the submissions made, especially the fact that a major part of the material has been collected during investigation. The entire transaction is based on documentary evidence. The Petitioner is ready and willing to cooperate with the investigation. He has no chance of absconding. He is ready and willing to abide by any terms and conditions to be imposed by this Court.

10. Hence, this Court directs that in the event of arrest of the Petitioner in connection with the aforesaid case, he be released on bail by the Officer effecting arrest on such terms and conditions including the conditions that the Petitioner shall cooperate with the investigation by remaining present in the Badagad Police Station as and when directed; shall not leave the jurisdiction of the Badagad Police Station without leave of the I.O.; shall record his presence before the Badagad Police Station once in a week, preferably on Sunday between 4.00 P.M and 5.00 P.M.; shall deposit the passport, if any, before the Badagad Police Station and on receipt of the passport, the I.O shall give the appropriate acknowledgment. Failure on the part

of the Petitioner to comply with the aforesaid directions given shall entail cancelation of pre-arrest bail of the Petitioner.

11. With the aforesaid order, this ABLAPL stands disposed of being allowed.

12. Copy of this order be communicated to the Badagad Police Station through learned S.D.J.M., Bhubaneswar immediately.

13. Free copy of this order be supplied to the learned counsel for the State for his information and necessary action.

14. Urgent certified copy of this order, if applied for, be given on proper application.

(S. Pujahari)
Judge

PKS