

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2987 of 2022

Sundram Charan

Petitioner
....
M/s.M.Kanungo, Sr. Advocate,

-versus-

State of Orissa

Opp. Party
....
M/s.S.N.Das, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

28.11.2022

Order No.

- 12.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with CID, C.B. P.S. Case No.02 of 2022 corresponding to C.T. Case No.525 of 2022 pending in the Court of learned S.D.J.M., Bhubaneswar for commission of offence punishable U/Ss. 419/420/467/468/471/120-B/34 of the I.P.C. and U/Ss. 66(C) and 67(D) of Information Technology Act. on the allegation of providing some information in the shape of phone numbers of different persons to co-accused persons who by such information duped number of persons by defrauding them using such mobile numbers through payment gateways in online purchases.
 3. In the course of hearing of the bail application, Mr.Milan Kanungo, learned Senior Counsel for the petitioner submits that the petitioner has already been detained in custody for more than seven months and he has not misused the liberty so granted to him in the form of interim bail as the petitioner has voluntarily surrendered to custody after availing the interim bail granted to him in two spells. It is further submitted by him that the petitioner is a license holder for

supplying information to anybody and he has also charged bills to the accused persons for providing some telephone numbers but learned Senior Counsel however, critically analyzing the submissions advanced on behalf of the State that such information is not coming under sensitive personal data and the authorities which have been referred to by learned counsel for the State on the last date are some recommendation issued by TRAI which does not provide any punishment for violating any guidelines therein. It is further submitted that the unfair trade practices adopted by the petitioner as submitted by the State is not tenable in this case since the petitioner being authorised has provided such information and that too, with due permission by charging bills to the accused persons against such information. It is further submitted by learned counsel that even if the actions of petitioner do constitute any offence, that would be covered by the penal provision of I.T. Act which is not punishable more than three years in this case, but the petitioner has already remained in custody for more than seven months. Learned Senior Counsel by drawing attention of the Court the principle laid down by Apex Court in ***Satender Kumar Antil Vrs. C.B.I. and others; AIR 2022 SC 3386*** submits that the Apex Court after referring to the decision in ***Sanjay Chandra Vrs. C.B.I.; (2012) 1 SCC 40*** in ***Satender (supra)*** has stated that the object of bail is neither punitive nor preventive and deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon and bail is the rule but jail is the exception and, therefore, the petitioner having not misused the liberty can be safely considered that he would never avoid the process of Court and thereby, there is no harm in granting bail to the petitioner. Learned Senior Counsel

accordingly, prays to grant bail to the petitioner.

4. On the contrary, Mr.S.N.Das, learned counsel for the State by reiterating strongly after taking through the provisions of different Acts and recommendation of TRAI submits that the actions of the petitioner are not only punishable as offences but also amount to be sharing sensitive personal information which in this case has been shared by the petitioner to co-accused persons to facilitate them to defraud the general public with huge sum of money and, thereby, the petitioner does not deserve to be released on bail. Learned counsel for the State while relying upon the recommendation of TRAI contends that violation of such regulation would entail punishment U/S. 70 of I.T. Act and, therefore, the petitioner having committed some serious offences in sharing such information to the co-accused should not be enlarged on bail.

5. Considering the rival submissions made, nature and gravity of accusations raised against the petitioner as also the surrounding circumstance including the pre-trial detention of the petitioner for more than seven months and his release on interim bail on two spells and thereafter, surrendering to custody after availing the interim bail and regard being had to the law laid down by Apex Court in *Satender (supra)* and other circumstance in entirety, this Court grants bail to the petitioner.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court

without prior permission till conclusion of the trial and that the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with and that the petitioner shall report attendance before the jurisdictional Police Station once in a fortnight preferably on second Saturday of every month in between 10 A.M. to 12 Noon for six months from the date of his release from the custody. The I.I.C. of jurisdictional Police Station in Odisha shall not detain the petitioner unnecessarily after recording his attendance beyond the time as stipulated.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out.

7. Accordingly, the BLAPL stands disposed of.
8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge