

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMA No. 108 of 2022

Prabin Ranjan Thakur

....

Petitioner

Mr. Manas Chand, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr.S.S.Mohapatra, ASC

CORAM:
JUSTICE R.K.PATTANAİK

ORDER
15.07.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
2. An application under Section 389(2) read with Section 439 Cr.P.C. is filed by the petitioner for suspension of sentence and grant of bail pending the decision in Criminal Appeal No. 259 of 2021 on the grounds stated therein.
3. Mr. Chand, learned counsel for the petitioner submits that the accused has remained in judicial custody for nearly three years and seven months and in the meantime, co-convict, namely, Lalit Sabar was granted bail in CRLMA No. 22 of 2021 by order dated 29th April, 2022, a copy of which is produced today before the Court. It is further submitted by Mr. Chand that considering the length of detention since 2018 which also covers 50% of the sentence imposed, the petitioner should be released on bail

pending decision in the appeal against the order of conviction and sentence imposed by the court below in C.T. Case No. 552 of 2018 (T.R. No. 05/2021).

4. Mr. Mohapatra, learned counsel for the State, on the other hand, submits that the petitioner is the prime accused and at the relevant point of time, he was the Branch Manager and at his instance, huge amount of Rs.1,23,30,180/-(Rupees one crore twenty three lac thirty thousand one hundred eighty) was allegedly misappropriated and that apart, his request for bail on suspension of sentence was once rejected earlier by this Court vide order dated 6th December, 2021 in CRLMA No. 259 of 2021.

5. In fact, on perusal of the record in CRLMA No. 259 of 2021, it is made to appear that by order dated 6th December, 2021, the petitioner, who had filed a petition under Section 389(2) read with Section 439 Cr.P.C. was dismissed by the Court declining to suspend the sentence and release the petitioner on bail pending disposal of the appeal. Admittedly, in CRLMA No. 22 of 2022, the other convict, namely, Lalit Sabar was released on bail on suspension of sentence, who has also been imposed with a sentence of seven years imprisonment.

6. A question put by the Court regarding the maintainability of the petition under Section 389 (2) Cr.P.C. Mr. Chand, learned counsel for the petitioner submits that technically speaking, it is about release of the petitioner on bail pending decision in the appeal and therefore, necessary order can be passed even if an earlier request had been refused and for that, there is no bar as such. The above contention is not challenged by Mr. Mohapatra, learned ASC.

7. Considering the submissions of learned counsel appearing for the parties, notwithstanding an earlier order of this Court in CRLMA No. 108 of 2022, instead of adhering to the technicality on the question of maintainability of the petition and regard being had to the release of the other convict, namely, Lalit Sabar in CRLMA No. 22 of 2022 and the fact that more than three and half years being the period of detention vis-à-vis the petitioner, who is stated to be a native of Khariar and residing within the jurisdiction of the concerned PS. the Court is of the view that he should be released on bail on similar terms and conditions but subject to furnishing a property security of Rs.50,00,000/- (Rupees fifty lac) before the court concerned.

8. Accordingly, the CRLMA stands disposed of.

9. In the result, the petitioner is directed to be released on bail on such terms and conditions as fixed by the court below in seisin over the matter with a condition that he shall attend the Court on each date of posting of the case besides the condition of furnishing the property security as has been ordered.

(R.K.Pattanaik)
Judge

kabita