

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4677 of 2021

Samir Kumar Pati

....

Petitioner

Mr. J.K. Khuntia, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

05.04.2022

Order No.

07.

1. This matter is taken up through hybrid mode.
2. Heard Mr. J.K. Khuntia, learned counsel for the petitioner and Mr. Karunakar Gaya, learned Additional Standing Counsel for the State.
3. The petitioner is an accused in G.R. Case No.101 of 2021, on the files of learned S.D.J.M. Sonepur, arising out of EOW Bhubaneswar P.S. Case No.08 of 2021, under Sections 420/467/468/471/406/120-B of the IPC read with Sections 66(C) and 66(D) of the IT Act, 2008 and is in custody since 05.05.2021
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Sonepur, by order dated 18.05.2021 in the aforementioned case, the present BLAPL has been filed.

5. Learned counsel for the petitioner submitted that he is a mere employee and acted as per as the instructions of his employer Mr. B. Mansingh principal accused. Regarding the withdrawals of Rs.28,98,000/- (Rupees Twenty Eight Lakhs Ninety Eight Thousands only), it is stated that such withdrawal was at the instance of the said Mr. Mansingh and in fact the amount was later on taken away by him.

6. The learned counsel for the petitioner also relied on the affidavit filed by the wife of the petitioner that the petitioner is a salaried employee and thus pleaded that he had no active role in the fraud committed. It is also further stated that the amounts of Rs.50,940/- and Rs.75,000/- credited to the accounts of the petitioner and his wife respectively were also on account of the instructions given by the principal accused.

7. Thus, the learned counsel submitted that since the charge sheet has already been filed on 27.08.2021 further incarceration is unwarranted.

8. Per contra the learned counsel for the State assisted by the I.O. who is present in Court, opposes the prayer for bail stating inter alia that there are no materials on record to justify the stand of the petitioner that he is a paid employee and further the submission of the petitioner that he was acting at the behest of employer and he has no complicity does not merit the consideration of this Court.

9. It is also submitted that since trial has commenced there is no justification for enlarging the petitioner on bail in the factual matrix of the case at hand.

10. It is also urged by the learned counsel for the State that in view of this Court's order dated 22.07.2021 in BLAPL No.5481 of 2021 in respect of the co-accused Mr. Rajkishore Nayak, the bail application of the petitioner does not merit the consideration of this Court.

11. On Considering the rival submissions it has come to the fore, on the basis of the materials on record, more particularly the instructions submitted to this Court, which reveals that an amount of Rs.50,940/- (Rupees Fifty Thousands Nine Hundred Forty only) was transferred to the account of the petitioner and another Rs.75,000/- (Rupees Seventy Five Thousands only) was transferred to the account of the wife of the petitioner.

12. The withdrawal of Rs.28,98,000/- (Rupees Twenty Eight Lakhs Ninety Eight Thousands only) on different dates though was made by the petitioner but the same was "being authorized by Mr. B. Mansingh" .

13. On a conspectus of materials on record this Court feels that further incarceration of the petitioner is uncalled for, in the case at hand since charge sheet had already been filed on 27.08.2021.

14. The contention of the learned counsel for the State that release of the petitioner at this stage will affect the ongoing

trial does not appear to be on sound wicket since the petitioner can be put to terms not to interfere on the ongoing trial.

15. Hence this Court directs the petitioner to be released on bail. Conditions to be fixed by the learned trial Court in seisin of the matter with the additional stipulation that petitioners shall submit cash security to the tune of Rs.2 lakhs.

16. Accordingly, this BLAPL stands disposed of.

17. Urgent certified copy of this order be granted as per rule.

Santoshi

