IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.7585 of 2021

Prabina Kumar Sahoo & another. .... ***Petitioners***

Mr. Santanu Kumar Sarangi, Sr. Advocate

-versus-

State of Odisha. .... ***Opposite Party***

Addl. Standing Counsel

CORAM:
JUSTICE S. PUJAHARI

ORDER
18.05.2022

Order No.	
05.	**1.** Apprehending their arrest in Capital P.S. Case No.44 of 2020 corresponding to G.R. Case No.494 of 2020 in the court of the S.D.J.M., Bhubaneswar, registered under Sections 419, 420, 467, 468, 471, 406 and 120-B of IPC, the petitioners have filed this application under Section 438 of Cr.P.C. seeking for pre-arrest bail.

2. Heard the learned counsel appearing for the petitioner and the learned Addl. Standing counsel appearing for the opposite party-State and perused the relevant papers on record vis-à-vis the contentions raised by the petitioners vide their application at hand.

3. As it appears from the F.I.R. lodged by the Chief Manager, Punjab National Bank, Bapujinagar Branch, Bhubaneswar, pursuant to an application made by the petitioner no.2, a partner of Shakti Pharmaceuticals, on 19.05.2017 for availing cash credit loan to the tune of Rs.80 lakh, the then officials of the Informant-Bank on verifying the documents submitted by the petitioner no.2 as well as the petitioner no.1 – Executive Manager of the Firm sanctioned the cash credit loan to the tune of the aforesaid amount in favour of the Firm, under the Primary Security of Hypothecation of Stock of Medicines, surgical appliance, generic / consumer and OTC products and assignment of book debts present and future both, and charge over all other current assets as shown in the balance present and future both, if any, and also under the collateral security of landed property measuring Ac.0.306 decimals pertaining to Plot No.1533/3305 at Mouza-Paikrapur under Khata No.456/1149 recorded in the names of Durga Charan Sahoo, Mahalaga Sahoo and Mandakini Sahoo. The loan was sanctioned also under the guarantee of both the petitioners as well as the aforesaid landowners. Due to non-payment of the loan, action was initiated by the Bank under the provisions of SARFAESI Act, 2002, and while undertaking process for taking over the physical possession of the property, the Bank came to know that the title deeds in respect of the land as deposited for creating equitable mortgage were fake ones, and that the loanees in connivance of others had committed fraud in depositing the forged sale deeds and identity proofs of the landowners and by impersonating the landowners for the purpose of availing the loan. As reported, investigation is ongoing by the Capital Police.

4. Submission has been advanced on behalf of the petitioners that they never executed any document of quarantee nor offered any guarantors regarding mortgage of landed property, and that although they requested the Bank to supply the details of mortgage and the loan documents, there was no response from the Bank. It is the further contention of the petitioners that they have not availed the loan to the tune of Rs.80 lakh as alleged and that, rather the Bank officials have inflated the loan to the above tune, and in connivance with Chartered Accountant they have created the documents and siphoned large amount of money from the account of the petitioners. It is further submitted by the learned counsel for the petitioners that for the criminality committed by the Informant-Bank and its officials / Chartered Accountant, the petitioners filed a case bearing I.C.C. No.2867 of 2020 before the SDJM, Bhubaneswar which pursuant to the order of the said Court under Section 156(3) of Cr.P.C. has been registered as P.S. Case No.590 of 2020 under

Sections 420/403/406/409/467/468/469/471/120-B/34 of IPC in Capital Police Station corresponding to C.T. Case No.5983 of 2020 in the court of the SDJM, Bhubaneswar and that the present case has been falsely foisted by the Bank as a counter blast to the aforesaid case to harass the petitioners.

5. The learned Addl. Standing counsel for the State, on the other hand, is opposed to the move of the petitioners, on the ground, inter-alia, that the offences are grave and serious in nature involving fraud on Bank.

6. To reiterate, the petitioners are alleged to have committed fraud, forgery and impersonation in order to avail cash credit loan from the Informant-Bank. Although, there is a counter case at the instance of the petitioners against the Bank for almost similar accusation, the same *ipso facto* does not afford a ground to the petitioners to seek pre-arrest bail. Taking note of the seriousness and gravity of the allegations, and in the case of the present nature custodial interrogation of the accused persons being a necessary part of the investigation, this Court is not inclined to release the petitioners on pre-arrest bail.

7. Hence, the ABLAPL stands dismissed.

(S.Pujahari)
Judge

MRS