

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.7926 of 2022

Nirmal Kumar Mohapatra ***Petitioner***
Mr.Rama Chandra Panigrahy, Advocate

-versus-

State of Odisha ***Opp.Party***
Mr.S.K.Panigrahi, A.S.C..

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

22.07.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Standing Counsel. Perused the records.
3. The present bail application arises out of a complaint case bearing I.C.C.Case No.217 of 2021 pending before the learned J.M.F.C.(R), Cuttack which corresponds to Jagatpur P.S.Case No.127 of 2022 for alleged commission of offence under Sections 406, 409, 420, 468, 471/34 of the Indian Penal Code.
4. It is submitted by the learned counsel for the Petitioner that two Companies have entered into an agreement and they have business relationship. It is further contended by the learned counsel for the Petitioner that M/S.Stanley Black & Decker India Pvt. Ltd. and M/S. Aditya Trade & Co., a proprietorship concern represented by its Proprietor Mr.Achintya Swain. The present complaint case out of which this bail application arises has been filed by the

Proprietorship concern, M/S Aditya Trade & Co. represented through its Proprietor Achintya Swain making allegation against the Officers of the M/S. Stanley Black & Decker India Pvt. Ltd.. Learned counsel for the Petitioner drawing the attention of this Court to a Memorandum of Settlement under Annexure-2 submits that the trade dispute were amicably resolved and according to the said Memorandum of Settlement the dispute was settled for Rs.6,77,613/- out of which it was decided that the complainant shall pay Rs.4.36 in two phases comprising of Rs.2.50 lakhs by 25th October 2019 and the balance Rs.1.86 lakh by 10.11.2019. It is further agreed that after receiving the aforesaid Rs.4.36 lakh on or before 10.11.2019 the company to which the Petitioner belongs will take back the materials of Rs.2,00,000/- and the balance amount of Rs.41,613 will be adjusted against pending bill.

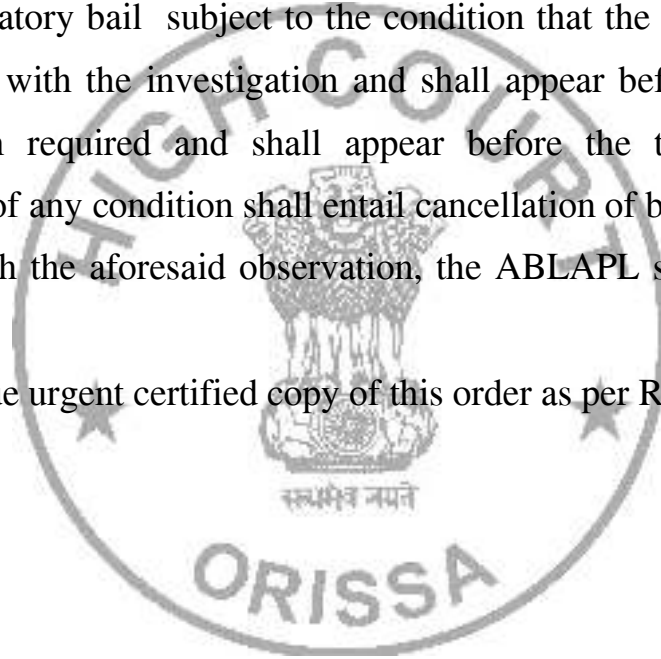
5. On a perusal of the Memorandum of Settlement under Annexure-2 it appears that both the sides have signed the same. In such view of the matter, learned counsel for the Petitioner submits that the present dispute arises out of a commercial transaction and the complainant is trying to give it a colour of criminal case only with an intention to harass the Officers of M/S Stanley Black & Decker India Pvt. Ltd.

6. Learned Additional Standing Counsel on the other hand submits that no doubt the dispute arises out of a commercial transaction. However, serious allegations have been made in the complaint case. Further, it is submitted that in the event, this Court is inclined to grant bail to the Petitioner, then necessary orders be passed directing the Petitioner to appear before the trial court in course of trial on each and every date.

7. Having heard learned counsel for the respective parties and upon perusal of the documents and records, this Court is of the

considered view that the transaction involved in the present case are of same nature. In view of the Memorandum of Settlement under Annexure-2 the same can be amicably resolved .While working out the terms of the agreement under the Memorandum of Settlement under Annexure-2 some disputes arises, as a result of which the present criminal case has been lodged. Considering the aforesaid facts this Court directs that in the event of arrest of the Petitioner by the Arresting Officer he shall be released on bail subject to such terms and conditions as deemed fit and proper and in the facts and circumstances of the present case. Further release of the Petitioner on anticipatory bail subject to the condition that the Petitioner shall cooperate with the investigation and shall appear before the I.O. as and when required and shall appear before the trial court and violation of any condition shall entail cancellation of bail..

8. With the aforesaid observation, the ABLAPL stands disposed of.
9. Issue urgent certified copy of this order as per Rules.



(A.K. Mohapatra)
Judge