

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7327 of 2019

***Sri Manoj Kumar
Pattanaik***

....

Petitioner

Mr. T.K. Mohanty, Advocate

-versus-

***Shri D.V.S. Kishore, Asst.
Director, Enforcement
Directorate, Government
of India***

....

Opp. Party

*Mr. Gopal Agarwal, Advocate,
(for Enforcement Directorate)*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
08.07.2022**

Order No.

26. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard Mr. T.K. Mohanty, learned counsel for the petitioner and Mr. Bibekananda Nayak, learned counsel appearing for the Enforcement Directorate.

This bail application has been filed against the rejection order of the learned Sessions Judge, Khurda, Bhubaneswar dated 02.04.2019 passed in CrI. Misc. (PMLA) Case No.34 of 2016.

It is not disputed that the petitioner is in judicial custody in connection with this case since 26.10.2018

and as such, he has already undergone three and half years of substantive sentence. The offence in which charge sheet has been submitted keeping the investigation open is under section 4 of Prevention of Money-Laundering Act, 2002 (hereafter 'PML Act') and the maximum punishment prescribed for such offence is seven years and therefore, the petitioner has already undergone half of the substantive sentence.

Learned counsel appearing for the Enforcement Directorate submitted that till now the investigation is under progress and as per the first charge sheet submitted against the petitioner, there are as many as sixty four witnesses. He further submitted that section 45 of PML Act is a bar for grant of bail and unless the petitioner satisfies the twin conditions mentioned in such section, he cannot be released on bail.

Learned counsel for the petitioner placed reliance in the case of **Nikesh Tarachand Saha -Vrs.- Union of India reported in (2018) 11 SCC 1**, wherein it was held that section 45(1) of the PML Act, insofar as it imposes twin conditions for release on bail was held to be unconstitutional as it violates Articles 14 and 21 of the Constitution of India and accordingly, in the said case, all the bail rejection orders were set aside, and the cases were remanded back to the respective Courts to be heard merit,

without application of twin conditions contained section 45 of 2000 PML Act.

Considering the submissions made by the learned counsel for the respective parties, the nature of accusation against the petitioner, the punishment prescribed for the offence under which the charge sheet has been submitted and the fact that the petitioner has already undergone half of the maximum substantive sentence prescribed for the offence, while not inclining to release the petitioner on bail on merit, I am inclined to release the petitioner on interim bail for a period of six months from the date of release. The petitioner shall surrender before the learned trial Court immediately on the expiry of the six months period.

For the above period, let the petitioner be released on interim bail in the aforesaid case on furnishing bail bond of Rs.2,00,000/- (rupees two lakh) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper and with further conditions that while on interim bail, the petitioner shall not try to come in contact with the prosecution witnesses or tamper with the evidence, he shall not indulge in any criminal activities, he shall appear before the learned trial

Court on each date to which the case would be posted during the interim bail period.

Violation of any terms and conditions shall entail cancellation of interim bail.

Accordingly, the BLAPL is disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judges



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