

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMA Nos.190, 216 and 217 of 2021

Abhisek Mishra
(in all the CRLMAs)

.... ***Petitioner***

Mr. B.K. Ragada, , Adv.
along with
Mr. L.N. Patel, Adv.

-versus-

State of Odisha and Anr.

.... ***Opposite Parties***

Mr. D. Mund, AGA
Mr. G. R Mohapatra, ASC
(for O.P.1/State)
Mr. K.A. Guru, Adv.
(for O.P.2)

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER
11.08.2022

Order
No.

07.

1. These matters are taken up through hybrid arrangement.
2. All the aforesaid three CRLMAs have been filed by the petitioner-complainant for cancellation of bail granted to the opposite party No.2-Sanjeev Mital vide order dated 02.07.2021 passed in ABLAPL No.6554 of 2021, the opposite party No.2-Biswajit Satpathy vide order dated 02.07.2021 passed in ABLAPL No.6557 of 2021 and the

opposite party No.2- Abinash Kar vide order dated 02.07.2021 passed in ABLAPL No.6544 of 2021 by this Court.

3. Heard learned counsel for the parties.
4. It appears that the petitioner-complainant had lodged a written report against the aforesaid opposite part No.2 in all the CRLMAs (hereinafter referred to as "the opposite parties" for brevity) which was registered as Burla P.S. Case No.251 of 2021, corresponding to G.R. Case No.1610 of 2021, pending in the court of the learned S.D.J.M., Sambalpur for commission of offences under Sections 306/34 of the I.P.C. It is alleged that the because of humiliation of the opposite parties and others, the father of the petitioner-complainant committed suicide. Being a sensitive man, the father of the petitioner-complainant could not bear the humiliation of the opposite parties and such humiliation leads to commission of suicide. The opposite parties had approached this Court for anticipatory bail and this Court vide orders dated 02.07.2021 passed in ABLAPL No.6554, 6557 and 6544 of 2021 allowing them to release on pre-arrest bail.

Ordering portion of the order dated 02.07.2021 passed in ABLAPL No.6554 of 2021 is as follows:

“3. Considering the facts and circumstances and the materials so far collected by the prosecuting agency, it appears that if the present petitioner is enlarged on anticipatory bail at this stage, it will not affect the investigation adversely. The petitioner is a noted educationalist and he is a Vice-Chancellor of a reputed University throughout this period. No case has been made out warranting the petitioner’s custodial interrogation and no reasonable apprehension lies that if the petitioner is released on bail, he is likely to abscond, therefore this court allows his prayer for anticipatory bail.

4. Accordingly, this pre-arrest bail application is allowed as follows:

In case the petitioner is arrested in connection with Burla P.S. Case No.251 of 2021, he shall be released on bail forthwith on his executing bond of Rs.25,000/- (Rupees twenty-five thousand only) with two sureties each of the like amount to the satisfaction of the learned court in seisin over the matter with further condition that the petitioner shall cooperate with the investigation and shall not influence, coerce or intimidate any witness.

It is made clear that the learned Court in seisin over the matter, shall decide the case on its own merits in accordance with law, uninfluenced by the observations made in this order. As a sequitur, any

pending applications are disposed of in light of the above."

Ordering portion of the order dated 02.07.2021 passed in ABLAPL No.6557 of 2021 is as follows:

"5. Considering the facts and circumstances and the materials so far collected by the prosecuting agency, it appears that if the present petitioner is enlarged on anticipatory bail at this stage, it will not affect the investigation adversely. The petitioner is a Professor of Sambalpur University throughout this period. No case has been made out warranting the petitioner's custodial interrogation and no reasonable apprehension lies that if the petitioner is released on bail, he is likely to abscond, therefore this court allows his prayer for anticipatory bail.

*6. In view of the order passed today in ABLAPL No.6554 of 2021 (**Prof. Dr. Sanjiv Mittal Vs. State of Odisha and Ors.**) the present pre-arrest bail application is allowed in following terms:*

In case the petitioner is arrested in connection with Burla P.S. Case No.251 of 2021, he shall be released on bail forthwith on his executing bond of Rs.25,000/- (Rupees twenty-five thousand only) with two sureties each of the like amount to the satisfaction of the learned court in seisin over the matter with further condition that the petitioner shall cooperate with the investigation and shall not influence, coerce or intimidate any witness.

It is made clear that the learned Court in seisin over the matter, shall decide the case on its own merits in accordance with law, uninfluenced by the observations made in this order. As a sequitur, any pending applications are disposed of in light of the above."

Ordering portion of the order dated 02.07.2021 passed in ABLAPL No.6557 of 2021 is as follows:

"5. Considering the facts and circumstances and the materials so far collected by the prosecuting agency, it appears that if the present petitioner is enlarged on anticipatory bail at this stage, it will not affect the investigation adversely. The petitioner is an Assistant Director, Sports and Physical Education of Sambalpur University throughout this period. No case has been made out warranting the petitioner's custodial interrogation and no reasonable apprehension lies that if the petitioner is released on bail, he is likely to abscond, therefore this court allows his prayer for anticipatory bail.

*In view of the order passed today in ABLAPL No.6554 of 2021 (**Prof. Dr. Sanjiv Mittal Vs. State of Odisha and Ors.**) the present pre-arrest bail application is allowed in following terms:*

In case the petitioner is arrested in connection with Burla P.S. Case No.251 of 2021, he shall be released on bail forthwith on his executing bond of Rs.25,000/- (Rupees twenty-five thousand only) with two sureties

each of the like amount to the satisfaction of the learned court in seisin over the matter with further condition that the petitioner shall cooperate with the investigation and shall not influence, coerce or intimidate any witness.

It is made clear that the learned Court in seisin over the matter, shall decide the case on its own merits in accordance with law, uninfluenced by the observations made in this order. As a sequitur, any pending applications are disposed of in light of the above."

5. Learned counsel for the petitioner-complainant submitted that this Court while granting anticipatory bail to the opposite parties in all the aforesaid cases has stipulated the condition that the petitioner in each of the cases shall cooperate with the investigation and shall not influence, coerce or intimidate any witnesses. However, the opposite party No.2 in CRLMA No.190 of 2021 taking advantage of his position and power as the Vice Chancellor of Sambalpur University, instructed to issue show cause to one witness namely Sampurnananda Sahoo, Section Officer of Sambalpur University who supported the prosecution case and stated against the accused persons in his statement recorded under Section 161 of the Cr.P.C. He further submitted that issuance of show cause notice to this witness is amount not only to

influence witness but also to coerce or intimidate the witnesses. On the other hand, this witness was a part of the delegation who met the Superintendent of Police, Sambalpur to complain against the authority of the University which does not amount to gross misconduct. Therefore, such action of the said opposite party No.2 is gross violation of liberty granted to the opposite parties by this Court. In such view of the matter, the learned counsel for the petitioner submitted that the bail granted to the opposite parties in the aforesaid three ABLAPLs should be cancelled.

6. Learned counsel for the opposite parties submitted that bail granted can be cancelled, if it prima facie appears that the accused has misutilised the liberty or violated any bail condition affecting the trial. In the instant cases, the opposite parties have not yet been arrested and released on bail with condition. He further submitted that the aforesaid witness never supported the case of the prosecution. Rather, this witness in his statement recorded under Section 161 of the Cr.P.C. stated that he is the scribe of the F.I.R. as per the request made by the present petitioner. He further submitted that show cause notice was issued by the Registrar being the administrative head of the institution. The allegation

against the said witness is that he being the employee of the University met the Superintendent of Police, Sambalpur to complain against the institution without prior permission of the authority during the office hour. Therefore, show cause was issued against the petitioner for gross misconduct and indiscipline. Just because he is a witness, the University authority cannot be a mute spectator for any kind of indiscipline behavior.

7. Considering the materials available on record and the submissions made by the learned counsel for the parties, this Court does not find any strong and cogent ground to cancel the bail granted to the opposite party No.2 in the aforesaid three ABLAPs. At the same time, this Court directs the Opposite Party No.2 in all the CRLMAs to be careful about their conduct and mindful of any kind of violation of this Court's orders passed in the pre-arrest bail applications.

8. Accordingly, all the CRLMAs are dismissed.

(Dr. S.K. Panigrahi)
Judge