

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8818 of 2022

Ch. Badri Narayan Patra

....

Petitioner

Mr. A.K. Mohanty, Sr. Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K Gaya, ASC

Mr. J. Sahoo, Adv. (Informant)

CORAM: JUSTICE V. NARASINGH

ORDER
09.11.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner, learned counsel for the State and learned counsel for the Informant.
3. The Petitioner is an accused in G.R. Case No.1275 of 2022 pending on the file of learned S.D.J.M., Berhampur, arising out of Baidyanathpur P.S. Case No.185 of 2022, for commission of the alleged offence under Sections 341/294/420/468/471/120-B/34 IPC and is in custody since 11.08.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 1st Addl. Sessions Judge, Berhampur by order dated 30.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the Petitioner that C.S. No.176 of 2022 was filed by one Sangram Keshari Mahanty co-accused as Plaintiff (Petitioner in BLAPL No.8506 of 2022) against

the Informant and other co-accused who are arrayed as Defendants. The prayer made in the said civil suit is quoted hereunder for convenience of ready reference.

“i. By declaring the Regd Lease Agreement bearing No.10602201512 dt.09.03.2022 executed by the Defendant No.2 in favour of the Specimen Holdings Limited being represented by its Director Rushi Prasad Nahak for renewal of license of Apollo Clinic for a period of 5 years from 01.04.2021 to 31.03.2026 is a valid document.

ii. For grant of permanent injunction restraining the defendants and their men from interfering with the possession of the plaintiffs Apollo clinic till 31.03.2026.

iii. To grant any other reliefs as deem fit and proper in the fitness of the case.”

6. It is further submitted by the learned counsel for the Petitioner that even if the entire recitals in the FIR are accepted at the face value, role attributed to the Petitioner is more or less one under Section 120-B IPC and in fact allegations are more or less civil in nature and have been given the color of a criminal case as an arm twisting tactics. It is further submitted that the Informant and the wife of the accused Petitioner are the Directors of the same company, namely, Aum Aarogya Hospitals Private Limited and the entire transaction as cited in the FIR is agitated in Civil Suit bearing number C.S. No.176 of 2022 on the file of learned Civil Judge (Senior Division), Berhampur, Ganjam, adverted to herein above.

7. On a perusal of the plaint, which is on record, it is seen that the same has been filed by one of the co-accused Sangram Keshari Mahanty and the wife of the accused Petitioner and the Informant have been arrayed as Defendant Nos.2 and 3 respectively and one of the prayer in the civil suit is to declare the very registered lease

agreement, which is the subject-matter of the FIR, as a valid document.

8. It is the further submission of the learned counsel for the Petitioner that co-accused Rushi Prasad Nahak has been released on anticipatory bail by order of this Court dated 26.08.2022 in ABLAPL No.10135 of 2022. Hence, his further continuance in custody, keeping in view the nature of allegation, is not warranted.

9. Learned counsel for the State relies on the statement of the Informant and submits that in a designed and calculated manner the Informant has been duped.

10. Learned counsel for the Informant, on instruction, submits that another FIR i.e. Baidyanathpur P.S. Case No.317 dated 15.09.2022 has been filed regarding genuineness of the signature of the Informant in the resolution dated 31.03.2021 of the meeting of Board of Directors of Aum Aarogya Hospitals Private Limited at Annexure-3 of the connected BLAPL No.8988 of 2022 to act on behalf of said Aum Aarogya Hospitals Private Limited, on the basis of which the lease was executed.

11. This Court perused the FIR and considered the recitals in the case diary submitted by the learned counsel for the State. On perusal of the same, it comes to fore that the civil suit is pending relating to the lease deed in question and it is worth noting that the civil suit as stated was instituted on 23.04.2022 and the FIR was filed on 12.06.2022.

12. Taking into account the recitals in the FIR and the case dairy and the nature of allegation, this Court is of the prima facie view that a civil dispute has been camouflaged so as to bring the same within the contour of criminal proceeding.

12(A). It needs no emphasis that observations as made in the preceding paragraph are in the context of consideration of bail application. It ought not to be construed as prejudging the allegations, which is the subject-matter of ongoing investigation.

13. This Court had examined in detail the allegation while directing release of the co-accused Nishi Priyadarshini in BLAPL No.8988 of 2022.

14. Considering the nature of allegation and the role ascribed to the Petitioner and that the investigation has progressed substantially and the period of custody and the release of the co-accused and the complicity of the Petitioner as stated in the FIR, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned court in seisin over the matter.

15. Additionally, it is directed that the Petitioner shall appear before the I.O on such time and date as fixed by the learned Court in seisin. The Petitioner shall not leave the State of Odisha without the express permission of the Court in seisin.

16. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS