

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 13313 of 2022

Sri Rabindranath Pati

Petitioner
Mr. S. Das, Advocate

-versus-

State of Odisha (Vigilance)

Opposite Party
Mr. P.C. Das, ASC

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
15.11.2022

I.A. No.2114 of 2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This interlocutory application has been filed for modification of the order dated 18.10.2022 passed by this Court in the aforesaid bail application.
3. Heard Mr. S. Das, learned counsel for the Petitioner and Mr. M.S. Rizvi, learned Additional Standing Counsel for the Vigilance Department.
4. Considering the submission of Mr. S. Das, learned counsel appearing for the Petitioner, Order No.01 dated 18.10.2022 passed in ABLAPL No.13313 of 2022 is hereby recalled, and in its place the following order is passed afresh.

5. The Petitioner is seeking pre-arrest bail in connection with Cuttack Vigilance P.S. Case No.44 of 2022, corresponding to VGR Case No.29 of 2022, pending in the Court of Special Judge (Vigilance), Cuttack for commission of offences punishable under Sections 13(2) read with Section 13(1)(c)(d) of the Prevention of Corruption Act, 1988 read with Sections 409, 477-A and 120-B of Indian Penal Code.

6. It is submitted by the learned counsel for the Petitioner that on the basis of the allegation made by the Secretary, Board of Revenue by letter dated 31.03.2018, several cases of misappropriation of public fund were registered. However, it is submitted that the Petitioner was working as Head Clerk for a short duration, i.e., from 11.9.2007 to 28.2.2009. Thereafter, he was transferred to another place and in the meantime, he has been retired from service on attaining the age of superannuation in the year 2014. It is further submitted that the Petitioner is not involved in any misappropriation of the public fund and he has been falsely implicated in the present case. It is further submitted that the Petitioner has retired since long and now leading a peaceful retirement life. It is further submitted that there is no chance of absconding and fleeing from justice in the event he released on pre-arrest bail subject to any condition imposed by this Court.

7. Mr. M.S. Rizvi, learned Additional Standing Counsel for the Vigilance Department, on the other hand, submits that as the Head Clerk, the Petitioner was supposed to verify the Cash Book on day to day basis. Since he has failed in his duty, the Government has lost a huge amount of money. He further submits that the financial implication during the period in which the Petitioner was Head Clerk

was roughly about Rs.43 lakhs. However, the total financial implication is about Rs.6 crores. Therefore, the Petitioner should not be released on bail.

8. In reply, learned counsel for the Petitioner submits that there are several persons who have been implicated in the present case. He further submits that some of the co-accused persons like Gourahari Behera in ABLAPL No.11193 of 2022 and Natabar Pati in ABLAPL No.12331 of 2022 have been released on bail vide order passed by this Court.

9. Considering such submission and the fact that the Petitioner is aged about 72 years, this Court is not inclined to release the Petitioner on pre-arrest bail, however it is observed that in the event the Petitioner surrenders and moves for bail before the learned Special Judge (Vigilance), Cuttack in the aforesaid case within a period of four weeks from today, he shall be released on bail on such terms and conditions as the learned Special Judge may deem just and proper in the facts and circumstances of the case.

While releasing the Petitioner on bail, learned Special Judge shall also impose the following additional conditions –

- (i) The Petitioner shall appear before the I.O. and shall cooperate with the investigation as and when required and shall produce whatever documents in his possession, if required for the purpose of investigation.
- (ii) He shall appear before the learned trial court, as and when required by the learned trial court.
- (iii) He shall not try to tamper with the prosecution evidence in any manner whatsoever;

Violation of any of the conditions shall entail cancellation of bail of the Petitioner.

10. The ABLAPL and the I.A. are disposed of accordingly.
11. Urgent certified copy of this order be granted as per rules.
12. A free copy of this order be supplied to the learned A.S.C. (Vigilance) for taking needful action at his end.

(A.K. Mohapatra)
Judge

Debasis

