

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMA No.281 of 2022

***Aravinda @ Arubdam Oabda @
Arabinda Panda***

Petitioner

Mr. S. Behera, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
14.11.2022**

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned counsel for the State
3. Order dated 27.08.2022 passed by the learned 1st Addl. District & Sessions Judge, Baripada, inter alia, directing the Petitioner to furnish cash security of Rs.3,00,000/- (rupees three lakhs) as condition no.iv while enlarging him on bail in B.A. No.375 of 2022 arising out of Udala P.S. Case No.191 of 2022 is the subject-matter of challenge in the present CRLMA.
4. Petitioner is an accused in C.T. Case No.531 of 2022 pending on the file of learned S.D.J.M. Udala under Sections 403/406/420/506 IPC and he is in custody since 10.06.2022. Considering the prayer of the learned counsel for the Petitioner, learned Court below was pleased to enlarge him on bail and while doing so, directed for deposit of cash security of Rs.3,00,000/- (Rupees three lakhs), as one of the conditions.
5. It is submitted by the learned counsel for the Petitioner that imposition of cash security Rs.3,00,000/- (rupees three lakhs), as a condition of bail, virtually amounts to denial of bail.

6. It is apt to state here that this Court in the case of ***Pintu @ Sanjeev Chakrabarti v. State of Orissa*** reported in ***2004 (1) OLR 558*** referring to the judgment passed by the apex Court has clearly enunciated the law that Court while granting bail should ensure not to impose the cash security as a condition precedent for enlarging the accused on bail as consequently for non-fulfillment of such condition the accused cannot be released.

7. It needs no emphasis that right to be released on bail, in an appropriate case has been considered to be a facet of Article 21 of the Constitution. Hence, time and again, the apex Court and this Court has expressed the concern and fixed the guidelines that while granting bail, the court ought not to act as a collecting agent.

8. In imposing the cash security, learned Court in seisin has lost sight of such salutary principle.

9. Taking into account the law laid down in the case of ***Pintu @ Sanjeev Chakrabarti*** (supra), to sub serve the ends of justice, this Court modifies the impugned condition No.iv and directs that instead of cash security of Rs.3,00,000/- (rupees three lakhs), the Petitioner has to furnish property security of Rs.3,00,000/- (rupees three lakhs) which shall be pledged in favour of the learned S.D.J.M., Udala and the same shall be abide by the result of the trial.

10. Other stipulations in the said impugned order remain unaltered.

11. Accordingly, the CRLMA stands disposed of.

12. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge