

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 15770 of 2022

Bhabataran Nandy @ Bhabatarana Nandi

Petitioner

Mr. Bibhuti Ranjan Mohanty, Advocate

-versus-

State of Odisha

Opp. Party

Mr. S. Patra, ASC

**CORAM:
JUSTICE CHITTARANJAN DASH**

**ORDER
20.12.2022**

Order No.

01. 1. Heard learned counsel for the Petitioner and for the State.
2. This is an application for bail U/s. 438 Cr,P.C. filed by the Petitioner in apprehension of arrest for his alleged involvement in the offences U/s. 420/467/468/409/471/476/419/195/205/34 of IPC.
3. Learned counsel for the Petitioner submits that in the present matter three public servants have also been arrayed who are engaged as Sub-Registrar-cum-Registering Authority, Baliapal, Ministerial Staff/Clerks of the office of Sub-Registrar, Baliapal and the Branch Manager, Odisha Gramya Bank, Baliapal Branch. He further submitted that the Petitioners in the present are private persons.
4. Learned counsel for the State submits that there is material to implicate the present Petitioners in the offence alleged inasmuch as they have impersonated and re-registered the land stands in the name of the Informant and got the land in the name of the Petitioner.

5. The case record reveals that the land was originally purchased by the complainant/informant sometimes in the year 2003 from accused No. 1, 2 & 3 named in the complaint by virtue of registered sale deed vide No.1508. An area measuring Ac.0.05 decimals was sold out to the Complainant by Regd. Sale Deed No.1754 dated 12.08.2005 and an area measuring Ac0.03 decimals vide sale deed No.1753 on the same day. Both the sale deeds got executed and registered before the Sub-Registrar, Baliapal. After completion of the transaction, the complainant became the owner in possession of Ac. 0.08 decimals. While the matter stood thus, accused Nos. 1 & 4 who are Sisters and brothers by relations hatched conspiracy and fraudulently impersonated the complainant through accused No.4 Kalpana Mohapatra who identified herself as Aparajita Nath and executed registered sale deed No. 722 dated 6th May, 2011 in favour of the accused No. 1, Ganesh Chandra Mohapatra scribed by present Petitioner.

6. From the above, it is amply reveals that the Petitioner by way of fraudulent act and forgery, have got the land recorded in the name of accused No. 1 and thereby are amenable to the offence alleged against him.

7. The present Petitioner is reported to be a deed writer who scribed the deed. Considering the fact that the deed writer, by profession has to prepare deed solely on the instructions of the client and except his professional interest he has no interest in the lis allegedly to have been registered by fraudulent manner. In that view of the matter while this Court is not inclined to entertain to grant the prayer for anticipatory bail of the Petitioner.

8. Keeping in view the submission of the parties and having gone through the nature of allegations as emerged from the material on record and further the circumstances appearing, the seriousness and gravity of the offences, while this Court is not inclined to grant anticipatory bail, the petitioner is at liberty to surrender before the learned JMFC, Basta in Baliapal P.S. Case No.210 of 2022 corresponding to C.T. Case No. 653 of 2022 within three weeks from today and moves for bail. In such event the learned court in seisin over the matter shall consider the bail application of the Petitioner in the first hour of the day, strictly on the basis of the materials available on record in its own merit.

9. In case of rejection of the bail application by the learned court, the Petitioner may move for bail before the higher forum in the second hour of the same day. In that event, the higher forum shall consider and dispose of the bail application of the Petitioner on the same day on its own merit.

10. It is made clear that the learned court below shall not be influenced by any of the observations of this court made herein above in any manner. Case diary be made available to the learned courts below as soon as possible to facilitate disposal of the bail application of the Petitioner on the same day.

11. Court has to apply its own wisdom in dealing with the application for bail.

12. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge