
(2024) 05 OHC CK 0127

Orissa High Court

Case No: Bail Application No. 4142 Of 2024

Soumendra
Mohapatra @ Sankara

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision: May 8, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 120(B), 294, 420, 506

Hon'ble Judges: A.K. Mohapatra, J

Bench: Single Bench

Advocate: S.palit, Amitabh Mishra, Ashis Mishra, D.Achary, I.Swain, Milan Kanungo,
P.C.Das

Final Decision: Disposed Of

Judgement

A.K. Mohapatra, J

I.A.NO.448 OF 2024

1. This matter is taken up through Hybrid arrangement (virtual/physical mode).
2. Heard Mr.Palit, learned senior counsel for the Petitioners, Mr.Kanungo, learned senior counsel appearing for the informant and the learned

Additional Standing Counsel for the State.

3. This is an application filed by the Petitioners for interim bail in connection with Lingaraj P.S.Case No.96 of 2024, corresponding to C.T.Case

No.313 of 2024, pending in the Court of the learned J.M.F.C.-I, Bhubaneswar, for alleged commission of offence under Section 420, 120(B), 294 &

506 of the Indian Penal Code .

4. Mr.Palit, learned senior counsel appearing for the Petitioners at the outset submitted that the Petitioners are in custody since 05.04.2024. Further, he contended that the investigation has been progressed substantially in the meantime. He also contended that no further custodial interrogation of the Petitioners is necessary. Referring to the allegations made in the F.I.R., learned counsel for the Petitioners submitted that there was an agreement between the Petitioners and the informant with regard to the sale of a land. Furthermore, the Petitioner was supposed to act as a Power of Attorney of the informant. Accordingly, the Petitioners sold the land belonging to the informant to a 3rd party for a sum of Rs.1,60,00,000/- (Rupees one crore sixty lakhs), however the Petitioners have paid a sum of Rs.61,00,000/- according to the learned counsel appearing for the informant and Rs.87,00,000/-according to the learned counsel for the Petitioners. Moreover, it is also submitted by the learned counsel for the Petitioners before this Court that a Civil Suit is pending between the parties before the Civil Judge, Bhubaneswar in shape of C.S.No.967 of 2017. Mr.Palit, learned senior counsel appearing for the Petitioners submitted that although the aforesaid suit pertaining the present dispute is pending for several years, however the present F.I.R. was lodged only after a long delay, on 04.04.2024. On such ground, learned counsel for the Petitioners submitted that the F.I.R. has been filed with an ulterior motive in order harass the Petitioners and to extract money.

5. Mr.Kanungo, learned senior counsel appearing for the informant on the other hand submitted that the land involved in the above mentioned civil suit is different to the one involved in the present case. He further contended that the Petitioners were acting as Power of Attorney of the informant and were receiving money from the purchasers as if they are the owners of the land. Therefore, it was alleged that a clear case under section 420 read with Section 120-B of the Indian Penal Code is made out, as alleged in the F.I.R. On such ground, Mr.Kanungo, learned counsel appearing for the informant objected to the release of the Petitioners on bail.

6. Learned Additional Standing Counsel appearing for the State supported the stand of the learned counsel appearing for the informant. It is also

contended by the learned Additional Standing Counsel that the investigation is still on and Charge Sheet has not been filed and he submitted that the release of the Petitioners on bail would cause delay in conclusion of investigation and submission of charge sheet. Accordingly, learned Additional Standing Counsel objected to the release of the Petitioners on bail at this juncture.

7. Considering the submissions made by the learned counsels appearing for the respective parties and further taking into consideration the materials on record as well as the factual background of the present case, this Court is of the view that the dispute involved in the present case is a contractual dispute between the parties. However, the matter can very well be settled through the mechanism of mediation. In such view of the matter, while providing an opportunity to the parties to resolve the dispute between them through mediation, this Court is inclined to release the Petitioners on interim bail. Accordingly, the Petitioners are allowed to go on interim bail for a period of eight weeks from the date of release of the Petitioners subject to furnishing bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter. Additionally, such interim bail shall also be subject to any other terms and conditions to be fixed by the court in seisin over the matter. Both the parties are directed to settle the dispute through mediation. It is further made clear that the Petitioners shall positively surrender on the date of expiry of the interim bail period before the court below, failing which it is open for the court below to proceed against the Petitioners in accordance with law.

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6. Objection filed by the informant in court is taken on record. Copy thereof has already been served on the learned counsel for the Petitioners.

Learned counsel for the Petitioners shall file his reply to the objection filed by the informant within a week.

7. List this matter in the week commencing from 28th July, 2024. Issue urgent certified copy of the order as per Rules.

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