
(2025) 10 OHC CK 0015

Orissa HC

Case No: Bail Application No. 6032 Of 2025

Sambit Ray

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision: Oct. 28, 2025

Acts Referred:

- Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 209, 269, 483
- Bharatiya Nyaya Sanhita, 2023 — Section 84, 115(2), 127(2), 308(5), 308(7), 318(4), 319(2), 336(3), 351(3)

Hon'ble Judges: G. Satapathy, J

Bench: Single Bench

Advocate: D.P. Nanda, B.B. Choudhury, T.K. Acharya, D. Nayak, B. Mishra

Final Decision: Disposed Of

Judgement

G. Satapathy, J.

1. This is an application U/S.483 of BNSS by the petitioner for grant of bail in connection with Markatnagar P.S. Case No.97 of 2025 corresponding to G.R. Case No.512 of 2025 pending in the Court of learned J.M.F.C.-I (Cog.Taking), Cuttack, for commission of offences punishable U/Ss. 318(4)/319(2)/336(3)/354/115(2)/127(2)/ 351(3)/308(5)/ 308(7) of BNS.

2. The present case arises out of an FIR lodged by one Vijay Khandelwal alleging therein that he came in contact with the petitioner during a spiritual gathering in the year 2022 at his residence and taking advantage of the informant's religious inclination and emotional vulnerability, the petitioner misrepresenting himself to be a son of one IAS Officer, fraudulently projected himself as a person endowed with spiritual powers and accordingly, deceitfully induced the informant with false representation and gaining emotional control and trust of the informant and exploiting his influence, the petitioner gradually intruded into the informant's business activity and personal affairs and in the process, the petitioner managed to transfer the land in his favour through a false gift deed and also obtained an adoption deed by forging the signatures of the informant and his wife, and the petitioner had also taken a sum of Rs.60 to 70 Lakhs through bank accounts from the informant for buying a land in UP and later on took Rs.1Crore through bank and made fixed deposit without any knowledge of the informant. It is also alleged by the informant that the petitioner was always travelling in his(informant's) vehicles and subsequently, induced the informant to purchase vehicles and accordingly, the informant purchased vehicles namely, one Hyundai Exeter bearing Regd. No. OD-02-CT-4067 & another Toyota Fortunner bearing Regd. No.OD-05-BE-1188.

The informant, however, could know from his daughters that the petitioner induced him to part a sum to the tune of approximately Rs.3 to 4 Crores on the pretext of him being a God man. On this background, the informant has lodged an FIR against the petitioner, who was taken into custody on 25.05.2025 and upon completion of investigation, charge sheet has been placed in this case for commission of offence punishable U/Ss.318(4)/ 319(2)/ 336(3)/ 354/ 115(2)/127(2)/351(3)/308(5)/308(7) of BNS.

Being unsuccessful in securing his liberty before the learned trial Court and the learned Sessions Court, the petitioner is before this Court in this present bail application.

3. Heard, Mr. Durga Prasad Nanda, learned Senior Counsel, who is being assisted by Mr. Bibhuti Bhusan Choudhury, learned counsel for the petitioner; Mr. T.K. Acharya, learned Addl. PP and Mr. Dharanidhar Nayak, learned Senior Counsel, who is being assisted by Ms. Bini Mishra, learned counsel for the informant in the matter and perused the record. In addition to their oral arguments, the parties have filed their written notes of submission.

4. The rival submissions made by the parties make it very clear that the petitioner seeks for his liberty on the ground that the dispute between him and the informant being predominantly civil in nature, and his detention in custody, but the learned counsels for the informant and the State opposes the prayer for bail of the petitioner for his involvement in financial fraud and his criminal antecedents. This Court, before delving upon the rival contentions, needs to state here that bail deals with the two conflicting interest of personal liberty and societal interest, which arises out of the interest of the aggrieved party-cum-informant in a criminal case and bail means the conditional liberty, however, it is being confused by many persons to be letting the accused of the criminal charge which is not the correct proposition of law, since bail is predominantly a transfer of custody of the accused from law to the surety/sureties. The allegation leveled in this case is really significant not only for the nature of allegation, but also for the background of circumstances under which the allegation has been made. It is, however, claimed by the informant that the petitioner has cheated him for around Rs.2.76Crores through various transactions and in business land deals, but the FIR discloses about the petitioner obtaining a piece of land of the informant through a forged gift deed and there is also mention about the petitioner obtaining a deed of acknowledgement of adoption. In the course of argument, a specific query was made to the learned counsel for the informant with regard to filing of civil suit by the informant and his wife, since it was claimed by the petitioner that the informant has also filed a civil suit to declare the deed of acknowledgement of adoption as invalid and void and the counsel for the informant has in the course of argument acknowledges about the informant filing civil suit against the petitioner for such relief.

5. One of the important aspect of the argument as advanced for the petitioner is that he claims that the informant and his wife had in fact adopted him way back in the year 1988 and to confirm such adoption, they had executed a deed of acknowledgment of adoption in the year 2023, which was stated to be registered on 29.08.2023. The petitioner has of course filed a copy of the plaint so also the copy of the registered deed of acknowledgment of adoption, but detailed analysis of evidence and meticulous examination of documents in a bail proceeding should not be undertaken. Be that as it may, the informant although has instituted the suit prior to lodging of FIR, but he has neither stated such fact in the averment of the FIR, nor has stated before the Police in his statement with regard to institution of suit. The materials placed on record in fact unambiguously discloses about the prior acquaintance of the petitioner with the informant and it is claimed by the informant that he came in contact with the petitioner in the year 2022, but the allegation leveled against the petitioner in the FIR and the investigation done in this case reveals about allegation of cheating of the informant by the petitioner through business establishment of the informant and gaining the confidence of the informant and his wife by spiritually influencing them.

6. The written notes of argument of the learned counsel for the State reveals that the investigation has already been completed and gold and diamonds ornaments weighing 1.875Kgs, 10 costly wrist watches, one laptop, one Apple iPhone, cash of Rs.25,000/- and documents relating to sale deeds, gift deeds, advance booking of 3 CDA plots worth Rs.27Lakhs have been allegedly recovered and seized from the petitioner. Further, the gift deeds and deed of acknowledgement of adoption which have been challenged in civil suit, are subject matter of the civil suit, but the petitioner is in custody since 24.05.2025. The bail application of the petitioner was also opposed to by the learned counsel for the State and the learned counsel for the

informant for the criminal antecedents of the petitioner, but the petitioner although is having some criminal antecedents, out of which it is claimed by the petitioner that one case in Cuttack Mahila P.S. Case No.02 of 2018 has already been quashed by this Court in CRLMC No. 1048 of 2023. True it is that the petitioner is found to be involved in two to three other cases, but looking at the allegation against the petitioner in this case and the same having investigated into with culmination of investigation in the meantime, it would be improper to curtail the liberty of the petitioner in this case, more particularly in the background of allegation of pendency of civil proceeding between the petitioner and the informant prior to the criminal case.

7. Law is well settled that the object of bail is to secure attendance of the accused at the trial, but detention before conviction is punitive and grant of bail should be the norm, but detention in jail should be an exception. Whatever may be the allegation, it is only the allegation and the same is subject to proof in the trial and there is in fact no custodial interrogation is required in this case in view of the submission of charge sheet in the meantime. Further, deprivation of liberty must be considered as punishment, unless it is required to ensure that accused person would stand his trial when called upon and the Court must be conscious that the punishment begins after conviction and every man is presumed to be innocent until proven guilty at the trial. The underlying object of bail is that it is neither punitive nor preventive and any imprisonment before conviction has a substantial punitive content.

8. One of the important test for grant of bail is the tripod/triple test which includes flight risk, influencing witness and tampering evidence, but in this case, charge sheet having already been submitted, there is hardly any scope for influencing the witnesses, however, with regard to flight risk, appropriate conditions can be imposed by asking the petitioner to surrender his passport and thereby, such apprehension can be curbed and since the evidence predominantly collected in this case being based on documentary evidence, the petitioner would be hardly in a position to tamper such document and thereby, there is little apprehension of tampering with the evidence by the petitioner. The learned counsel for the State of course has cited the decisions in Nimagada Prasad Vrs. CBI; (2013) 7 SCC 466 and CBI Vrs. Ramendu; (2021) 9 SCC 743, however, no such case law was found in the citation (2021) 9 SCC 743, but even if the principle that has been settled in Nimagada Prasad(supra) is considered, it is found distinguishable from the facts of the present case, since the dispute in the relied on case revolves around the money of general public, but the present case is in fact a dispute between two individual for financial and land transactions giving rise to the criminal case. Further, the allegation and the defence plea would be adjudicated in the trial, but at this stage, there is no scope for dealing with the rival pleas in deciding the bail application. The learned Addl. PP in his written notes of argument, has also relied upon the decision in P.Chidambaram vrs. Directorate of Enforcement; (2019) 9 SCC 24 to contend that when there are multiple cases showing similar conduct, it reveals a pattern and propensity of the accused, which is material factor while considering the prayer for bail, but such a principle has never been discussed in the case law and, therefore, such contention of the learned Add. PP merits no consideration.

9. In view of the discussions made hereinabove and taking into account the nature and gravity of the offences as alleged against the petitioner vis-à-vis the accusations sought to be brought against him and regard being had to the materials placed on record and the offences being triable by Magistrate and taking into account the law laid down by the Apex Court in Satender Kumar Antil Vrs. Central Bureau of Investigation; (2022) 10 SCC 51 and granting of bail being purely for securing the liberty of the petitioner pending adjudication of the criminal trial, this Court without expressing any opinion of merit, admits the petitioner to bail, but subject to certain conditions.

10. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.5,00,000/- (Rupees Five Lakhs) only with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper by it with following conditions:-

(i) the petitioner shall not commit any offence while on bail and the petitioner shall co-operate with the further investigation, if any by appearing before the IO as and when required,

(ii) the petitioner in the course of trial shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with. **In case the Petitioner fails without sufficient cause to appear in the Court in accordance with the terms of the bail, the learned trial Court may proceed against the Petitioner for offence U/S.269 of BNS, 2023 in accordance with law,**

(iii) the petitioner shall not leave the country without prior permission of the learned trial Court till disposal of the case,

(iv) the Petitioner shall inform the Court as well as the Investigating Agency as to his place of residence during the trial by providing his mobile number(s), residential address, e-mail, if any, and other documents in support of proof of his residence. The Petitioner shall not change his address of residence without intimating to the Court and Investigating Agency,

(v) In case the Petitioner misuses the liberty of bail and in order to secure his presence, proclamation U/S.84 of BNSS, 2023 is issued and the Petitioner fails to appear before the Court on the date fixed in such proclamation, then, the learned trial Court is at liberty to initiate proceeding against him for offence U/S.209 of BNS, 2023 in accordance with law.

(vi) The petitioner shall surrender his passport, if any (if not already surrendered), and in case, he is not a holder of the same, he shall swear an affidavit to that effect. If he has already surrendered his pass-port before the learned Court, that fact should also be supported by an affidavit.

(vii) This Court reserves liberty to the informant/State to make an appropriate application for modification/recalling the order passed by this Court, if for any reason, the petitioner violates any of the conditions imposed by this Court.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out.

11. Accordingly, the BLAPL stands disposed of.