IN THE HIGH COURT OF ORISSA AT CUTTACK

I.A. No. 500 of 2026
(Arising out of CRLA No. 90 of 2026)

Pradeep Kumar Rout	….	**Appellant**
	-versus-	
State of Odisha (Vigilance)	….	**Respondent**

Advocates appeared in this case through hybrid mode:

For Appellant/Petitioner : Mr. D. Sarangi, Advocate

For Respondent/Opp. Party: Mr. Sanjay Kumar Das,
Standing Counsel (Vigilance)

CORAM:
THE HON'BLE MISS JUSTICE SAVITRI RATHO

J U D G M E N T

Date of hearing : 17.03.2026 Date of Judgment: 24.03.2026

Savitri Ratho, J. This interim application has been filed for modification of the order dated 22.01.2026 passed in I.A. No. 223 of 2026.

2. By judgment dated 26.12.2025 by the learned Special Judge (Vigilance), Bhubaneswar in TR Case No. 37 of 2010 arising out of Bhubaneswar Vigilance PS Case No. 32 of 2006, the Appellant for commission of offences punishable under Section 13(2) read with Section 13(1)(d) of the P.C. Act and under Section 420/468/471/120-B of the IPC and sentenced him to undergo RI for 3 years and to pay fine of Rs.25,000/- and in default of payment of fine to undergo RI for another 3 months on each count and all the sentences were directed to run concurrently. Another accused has been convicted for commission of offences under Section 420/468/471/120-B of the IPC and sentenced thereunder.

3. While admitting the Appeal, by order dated 22.01.2026 passed in I.A. No. 223 of 2026 filed for stay of realization of the fine amount, the Appellant was directed to deposit the fine amount within a period of four weeks with a further direction that the deposit would be subject to result of the Appeal.

4. Mr. D. Sarangi, learned Counsel for the Appellant submitted that in the year 2006, the Petitioner was working as the Accounts Officer on temporary basis and his services was not regularized. At the relevant time his scale of pay was fixed at Rs. 10,475/- and take home salary was Rs.17,703/-. After institution of cases including the present case, the Appellant was placed under suspension on 17.03.2007 and was paid subsistence allowance till 31.07.2010 amounting to Rs.10,6231/. The service of the Petitioner was terminated on 04.12.2018. From the year 2010, the Petitioner became jobless with no sustainable source of livelihood. He further submitted that apart from the above, 10 more cases of similar nature are pending before the learned trial court. The Appellant is contesting those cases and there is hardly any chance of abscondance of the Petitioner. He submitted that the fine imposed in this case is a large amount and it is impossible for the Appellant to pay the same.

5. Mr. Sanjay Kumar Das, learned Standing Counsel for the Respondent -Vigilance submitted that the appellant is capable of depositing the fine imposed by the learned Trial Court. By order dated 22.01.2026, the Appellant had been directed to pay the entire fine amount and nothing about his inability to deposit the fine had been stated in the I.A No. 223 of 2026. In the event, the appellant succeeds in the Appeal, he will get back the entire amount deposited by him. He submitted that the Supreme Court has held that the Appellate Court can impose conditions while suspending the sentence especially the sentence of fine. And whether the sentence of fine should be conditional or unconditional, depends on the facts of each case, especially the nature of the offence. In this case the Appellant along with the co-accused have been convicted for illegal sanction and disbursement of loan amount of Rs.52,95,000/-. He relies on the decisions of the Supreme Court in case of ***Satyendra Kumar Mehra alias Satendera Kumar Mehra vs. State of Jharkhand*** ; ***(2018) 15 SCC 139*** and ***Central Bureau of Investigation vs. Ashok Sirpal*** ; ***2024 INSC 819***.

6. After being admitted Criminal Appeals are listed for hearing after a long gap, which is usually ten years or more. When the Appeals are listed for hearing either the learned counsel do not appear or if they appear they submit that they cannot argue the case as they do not have any instructions from the Appellant / Petitioner. In some cases, where the conducting counsel has expired or has been designated as a Senior Counsel, neither does he appear nor do his associates appear inspite of having signed the vaklatnama for which the Court is compelled to issue notice to the Appellant. In many of these cases notice returns unserved with the endorsement – “addressee not found” or “addressee left”.

7. As a result, these old Appeals and revisions cannot be taken up for hearing, till the Vigilance or CBI counsel obtains instructions about the wellbeing of the Appellant / Petitioner and intimates him / her or their family members that the case is listed for hearing. Where the appellant or petitioner is traceable, the case is taken up for hearing after appearance of a counsel or appointment of a counsel by the Court and occasionally, in case of Criminal Revisions by perusing the materials on record. In old cases, quite often, the Vigilance and CBI authorities are also unable to contact the Appellant / Petitioner as they have either expired or have changed their address, which their original neighbours are not aware of.

8. But I cannot lose sight of the fact that in case of default of payment of the fine, as custodial sentence is usually imposed, the Appellant will be remanded to custody in case of failure to deposit the fine amount. This would render the Criminal Appeal infructuous as the chances of the Appeal being heard and disposed of within a short interval is bleak, due to pendency of older Appeals.

9. In the case of ***Satyendra Kumar Meher*** (supra), the Supreme Court has held as follows;

"36. We, however, make it clear that the appellate court while exercising power under Section 389 CrPC can suspend the sentence of imprisonment as well as of fine without any condition or with conditions. There are no fetters on the power of the appellate court while exercising jurisdiction under Section 389 CrPC. The appellate court could have suspended the sentence and fine both or could have directed for deposit of fine or part of fine."

In the case of ***Ashok Sirpal*** (supra), the Supreme Court has held as follows;

"8. While suspending the sentence, especially the sentence of fine, the Appellate Court can impose conditions. Whether the order of suspension of the sentence of fine should be conditional or unconditional depends on the facts of each case and especially the nature of the offence. For example, when there is a sentence of fine imposed while convicting an accused for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881. depending upon the facts of the case, the Appellate Court may impose a condition of depositing the fine amount or part thereof while suspending the sentence. However, the approach of the Court may be different in case of offences punishable under the IPC and cognate legislations. Whenever a prayer is for suspension of the sentence of fine, the Appellate Court must consider whether the sentence of fine can be suspended unconditionally or subject to conditions. However, the Court has to keep in mind that if a condition of the deposit of an amount is imposed while suspending the sentence of fine, the same should not be such that it is impossible for the appellant to

comply with it. Such a condition may amount to defeating his right of appeal against the order of conviction, which may also violate his rights under Article 21 of the Constitution.

9. In the facts of the case, the total sentence, including substantive sentence and sentence in default of fine, will be imprisonment for eight years and nine months. Considering the huge pendency of criminal appeals triable by a Single Judge and considering the limited period sentence, it is not possible to find fault with the impugned order passed way back on 29th September 2016.

10. Hence, there is no reason to interfere with the impugned order, especially when the respondent has deposited a sum of Rs.15.00.000/- in this Court. The deposit of Rs. 15.00.000/- shall be treated as a condition for suspending the sentence of fine. Accordingly, the appeal is disposed of with the above modification. The amount of Rs. 15,00,000/- deposited by the respondent has been invested by the Registry in fixed deposit. Immediately after maturity of the existing fixed deposit. the Registry shall transfer the amount of Rs. 15,00,000/-with interest accrued thereon to the Delhi High Court. The High Court shall invest the said amount in an appropriate fixed deposit with any nationalised bank till the disposal of the criminal appeal. Order regarding disbursal/withdrawal of the amount and interest accrued thereon shall be passed at the time of final disposal of the appeal."

10. The Appellant has been convicted for his complicity in illegal sanction and disbursement of a loan of Rs.52,95,000/-.

11. In view of the above discussion, I consider it fit in the interest of justice to modify the order dated 22.01.2026 passed in I.A. No. 223 of 2026. In order to ensure that the Appellant and his counsel retain some interest in the case when it is taken up for hearing it is directed that instead of depositing the entire fine amount, if the Petitioner deposits an amount of Rs. 20,000/- out of the total fine amount within a period of four weeks from today, the realization of balance amount of the fine shall remain stayed during pendency of this appeal. This deposit shall be subject to the final result of this appeal. It is further directed that this amount shall be kept in fixed deposit in a Nationalized Bank in order to earn interest.

12. It is however made clear that in case of default in appearance by the counsel for the Appellant or the Appellant in the Appeal, this order is liable to be recalled.

13. The I.A. is disposed of with the aforesaid direction.

(Savitri Ratho)
Judge

Orissa High Court, Cuttack
Dated, the 24th day of March, 2026/Sukanta