



IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.1772 of 2026

**Sarada Prasad Sethy @ S.P. Petitioner
Sethy**

Mr. A. K. Sahoo, Advocate

-Versus-

Union of India (CBI) Opposite Party

Mr. S. Nayak, Special Counsel for the CBI

And

ABLAPL No.1810 of 2026

Raj Kishore Panda Petitioner

Mr. A. K. Sahoo, Advocate

-Versus-

Union of India (CBI) Opposite Party

Mr. S. Nayak, Special Counsel, CBI

CORAM:

JUSTICE R.K. PATTANAİK

DATE OF HEARING:07.05.2026

DATE OF ORDER:22.05.2026

1. Both the ABLAPLs have been clubbed together and disposed of by the following common order.

2. Instant petitions under Section 482 BNSS are filed by the petitioners seeking anticipatory bail in connection with C.B.I., AC-1, New Delhi Case No.RC2162026A0001 of 2026 pending in the file of learned Special Judge, CBI-I, Bhubaneswar on the grounds stated therein.

3. Perused the FIR as at Annexure-1. In the case at hand, the petitioner in ABLAPL No.1772 of 2026 happens to be



the Dispatch Officer, MCL, Garjanbahal Open Cast Project, Basundhara Area (shortly referred to as 'A-1') whereas the other petitioner in ABLAPL No.1810 of 2026 is a Coal Transporter (hence called as 'A-2'). The details of the allegations in the FIR are not reproduced for the sake of brevity. In fact, the allegations therein are regarding the payment of protection money to a CBI official, namely, Prasanta Kumar Pallei (A-3) with other mischief committed and described elaborately. It is alleged that A-1 abused his official position in the MCL and used to collect bribe money from Coal Transporters and other lifters for showing them favour either by facilitating dispatch of extra load of coal or in ensuring high-grade coal by passing it off as low-grade. The manner, in which, A-1 indulged in different nefarious activities having nexus with A-3 stands narrated in the FIR. As to A-2, it is made to reveal from the FIR that an amount of Rs.1 lac was credited in the account of the son of A-3 and it was managed through him. The further allegation in the FIR is that A-1 used accounts of other individuals and mostly Coal Transporters for receiving the bribe money. It has been learnt by the CBI that an amount of Rs.70,000/- was transferred from the account of A-3 via his son, namely, Shri Satya Prakash Pallei and finally to Smt. Swarnalata Pallei, namely, wife. The manner in which A-3 influenced the officials of the MCL and indulged in corrupt practices is also described in the FIR, hence, the action by the CBI.

4. Heard Mr. Sahoo, learned counsel for the petitioners and Mr. Nayak, learned Special Counsel, CBI.



5. Mr. Sahoo, learned counsel appearing for the petitioners would submit that no formal complaint has been lodged by anyone alleging mischief committed by A-1. It is submitted that there is no prima facie case to rope A-1 in either and in so far as, the FIR is concerned, it has been lodged without proper verification and that apart, the same is completely silent as to who has been cheated as a result and therefore casts a doubt on the genuineness of the allegations levelled therein and possibility of concoction in order to falsely implicate A-1 cannot be ruled out. The further submission is that A-1 has been issued with notice under Section 35(3) BNSS, in response to which, he extended cooperation in the investigation to the CBI, but at the same time apprehends arrest, hence, he needs protection. Furthermore, it is claimed that the essential ingredients of the offences alleged are conspicuously absent and moreover, no incriminating materials have been seized in connection with the case and therefore, the petitioners, who apprehend arrest deserve pre-arrest bail in the event of any such action being followed. It is contended that A-3, who is an ASI of police, a low-ranked official of the CBI, does not have the power to investigate cases under the Prevention of Corruption Act, hence, it is quite absurd to allege that he influenced the senior officials of the MCL and collaborated with A-1 and managed to collect protection money from him and did such other mischief as alleged. Under the above circumstances and since, the residential premises of A-1 were raided but no incriminating materials could be recovered and seized except some documents like passbooks, bills/invoices etc.



he as well as A-2 are entitled to bail in the event of their arrest, as further submitted. While advancing the above argument, Mr. Sahoo, learned counsel cited a decision of the Apex Court in **Satender Kumar Antil Vrs. Central Bureau of Investigation and another** in Special Leave Petition (Crl.) No.5191 of 2021 corresponding to MA Nos.1849 of 2021, 2034 and 2035 of 2022 dated 15th January, 2026 to submit that any such arrest of the petitioners should not be a routine exercise especially after issuance of a notice to one of them, namely, A-1 under Section 35(3) BNSS.

6. On the contrary, Mr. Nayak, learned Special Counsel, CBI submits that the investigation is at its nascent stage, therefore, the petitioners are not entitled to pre-arrest bail. It is further submitted that searches were conducted at the residential premises of A-1 and A-3 and seizures have been made in presence of independent witnesses by observing the codal formalities in that regard and since, investigation is underway, any such protection granted to them is likely to derail it. Referring to the case diary and other relevant documents, which are produced in the Court for its reference, Mr. Nayak, learned Special Counsel, CBI would submit that A-1 & A-2 are required for custodial interrogation to extract from them the details of the entire network. It is contended that such details are within the exclusive knowledge of A-1 in particular and therefore, interrogation in custody is necessary, which is one of the effective modes of investigation. It is further submitted that from the materials collected during the investigation,



reasonable grounds exist to justify action against the petitioners, who are, therefore, not entitled to pre-arrest bail. Referring to the details of the searches and seizures made during investigation, it is finally contended that there is prima facie evidence in support of the allegations levelled and considering the nature of accusation made, conduct of the petitioners whose interrogation is necessary, pre-arrest bail should not be granted to them. In support of the contentions advanced, Mr. Nayak, learned Special Counsel, CBI refers to the following decisions of the Apex Court, such as, **Prahlad Singh Bhati Vrs N.C.T. Delhi and another 2001 AIR SCW 1263; Ashok Kumar Vrs. State of Union Territory, Chandigarh** in SLP (Crl.) 9949 of 2023 and **Devinder Kumar Bansal Vrs. State of Punjab 2025 Live Law (SC) 291** with the submission that anticipatory bail in corruption cases should be an exception.

7. The nature of allegation against the petitioners described above needs no reiteration. Admittedly, A-1 received a notice under Section 35(3) BNSS. The FIR was lodged in the month of January, 2026 and as it is made to understand, that A-1, in response to the same, appeared before the CBI on 31st January, 2026. In the meantime, four months have gone by and the details of the investigation during the aforesaid period is brought to the notice of the Court by Mr. Nayak, learned Special Counsel, CBI. As earlier stated, A-2 is a Coal Transporter and it is alleged that there is material on record to show that he was in a way instrumental in transfer of an amount of Rs.1 lac



to A-3. It is alleged that A-1 managed transfer of an amount of Rs.1 lac on 17th July, 2025 to the account of A-3 and it was with the assistance of A-2. From the preliminary enquiry and recent investigation, the CBI collected some materials against the petitioners, details of which are not elaborated. One of the serious allegations against A-1 is that he has shown favour to a Coal Transporters and other lifters and collected bribe money from them. The details of the payments received by the said accused are to be revealed during investigation. It is alleged that such favours have been shown facilitating dispatch of extra load of coal or enabling high-grade coal being passed off as low-grade. The transporters and coal lifters are said to have been hugely benefitted and in lieu A-1 collected the bribe money. It is also alleged that the said accused got himself posted as the Dispatch Officer in the MCL with the help of A-3. At this juncture, with such allegations levelled against the petitioners, this Court is inclined to consider whether the petitioners are not entitled to pre-arrest bail as against the argument advanced by Mr. Nayak, learned Special Counsel, CBI that anticipatory bail should be granted only in exceptional circumstances.

8. The Apex Court in **Prahlad Singh Bhati** (supra) held and observed that the jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. It has also been observed therein that while granting bail, the Court has to keep in mind the nature of accusations, kind of evidence in support thereof,



the severity of the punishment, the character and behavior and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial so on and so forth must be considered in the larger interest of the public or State and similar other considerations. It has also been concluded therein that it has to be kept in mind that for the purpose of granting bail, the Legislature has used the words 'reasonable grounds for believing' instead of 'the evidence' which means the Court dealing with bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution would be able to produce prima facie evidence in support of the charge and at that stage, it is not expected to have the evidence in proof of guilt of the accused beyond reasonable doubt.

9. Applying the settled principle of law enunciated in the decisions (supra) and considering the materials on record and evidence collected during the investigation by the CBI, it cannot be said that there is no ground at all to believe the involvement of the petitioners. The details of the transactions and the activities, in which, the petitioners indulged themselves can only be ascertained during further investigation which may even need custodial interrogation. But, one of the petitioners, namely, A-1 has been served with a notice under Section 35(3) BNSS and therefore, the Court draws an attention to the decision in **Satender Kumar Antil** (supra) to hold that pursuant to such a notice, power of arrest in terms of Section 35(6) BNSS shall have to be exercised in terms of the law enunciated



therein. A question may arise as to why such notice is not to be given to A-2, who allegedly collaborated with A-1, when the latter is said to have managed everything having nexus with A-3. The Court is inclined to hold that having regard to the evidence so far received, A-2 should be treated equally with a notice under Section 35(3) BNSS instead of straightaway demanding his custodial interrogation by the CBI, more so when, he is an outsider. According to Court, the CBI shall have to collect further evidence to break into the network to show that there is substantial loss caused to the MCL for the kind of mischief committed by A-1, hence, any further action against him and A-2 with a notice to the latter under Section 35(3) BNNS, which it considers expedient, unless anything really incriminating is already unearthed in the meantime, shall have to be in accordance with the directions issued in **Satender Kumar Antil** (supra). In fact, nothing is revealed from the case diary to show as what more evidence collected during the interregnum after notice issued and served on A-1 that necessitates action by the CBI and the need for his immediate custodial interrogation. As earlier concluded, A-2 needs a similar treatment with a notice under Section 35(3) BNSS.

10. Quite curiously, the Court finds that no coercive action followed against A-3, who alleged to have received the protection money from A-1. Of course, any such action against A-3 depends on evidence collected during investigation by the CBI and it is within their discretion and wisdom, but having considered the case in its entirety,



this Court is of the humble view that any further action vis-à-vis A-1 and A-2 should necessarily after complying the requirements of arrest post-issuance of notice under Section 35(3) BNSS as delineated by the Apex Court in **Satender Kumar Antil** (supra). At this juncture, the Court is to remind that Section 35(6) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 authorizes arrest of an individual who fails to comply with a notice of appearance or refuses to identify themselves. However, the Apex Court has categorically observed that such an arrest is an exception rather than an automatic consequence and must be based on strict and objectively recorded necessity. According to the Court, issuing a notice under Section 35(3) BNSS is mandatory for offences punishable with imprisonment up to 7 years and the arrest under Section 35(6) must be reserved only for highly exceptional circumstances. The Apex Court has clarified that any arrest made under Section 35(6) BNSS must be justified by fresh materials or circumstances that were not available at the time when the initial notice was issued. One cannot simply rely on the original reasons outlined in the notice Section 35(3) BNSS to justify taking a person into custody. It is also to be borne in mind that non-compliance with a notice merely enables one to consider arrest, the same does not mandate it. Furthermore, it must be independently examined and recorded with reasons demonstrating that taking the individual into custody is critical for a proper investigation. The above provision cannot be misused as a tool of convenience or solely for the purpose of questioning of an accused. It must be strictly balanced with



an individual's fundamental right to liberty guaranteed under Article 21 of the Constitution of India. Having said that, this Court at the same time is of the conclusion that as the investigation is underway and regard being had to the allegations in the FIR, at this juncture, it would not be just and proper to grant anticipatory bail to the petitioners as has been demanded.

11. Accordingly, it is ordered.

12. Consequently, the ABLAPLs stand disposed of with the observations made hereinabove.

(R.K. Pattanaik)
Judge

Rojina

Signature Not Verified

Digitally Signed
Signed by: ROJINA SAHOO
Designation: Junior Stenographer
Reason: Authentication
Location: OHC, CTC
Date: 25-May-2026 16:44:51

