



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 13984 of 2023

Ashok Kumar Saha **Petitioner**

-Versus-

Republic of India **Opp. Party**

Advocate(s) appeared in this case:-

For Petitioner : Mr.M.Kanungo, Senior Advocate,
With Mr. M.K.Mohaptra, Advocate

For Opp. Party : Mr.S.Nayak,
Advocate (for CBI)

CORAM:

JUSTICE SASHIKANTA MISHRA

JUDGMENT

23rd August, 2024

SASHIKANTA MISHRA, J. I.A. No. 445 of 2024

This is an application filed by the petitioner seeking his release on interim bail.



2. Heard Mr. M.Kanungo, learned Senior counsel with Mr. M.K.Mohapatra, learned counsel for the petitioner and Mr. S.Nayak, learned counsel for the CBI.

3. The petitioner is in custody since 12.09.2015 in connection with SPE No. 34 of 2014 corresponding to T.R. No. 4/2017 pending in the Court of the learned Special Judge (CBI)-1, Bhubaneswar for the alleged commission of offence under Sections 420/408/409/120-B/34 of IPC r/w Sections 4,5 & 6 of Prize Chits & Money Circulation Scheme (Banning) Act, 1977. His earlier application for bail, being BLAPL No. 1245 of 2022 was rejected on merits by this Court as per order passed on 28.03.2022. The present application has been filed seeking interim bail for 6 months on the ground that the minor son of the petitioner namely, Anirban Saha is suffering from severe Asthama and the doctor has advised for better treatment as otherwise his life would be in danger. As such, the petitioner is required to be present in the house in order to arrange money as there is no other male member in the family to do so. Further, the petitioner's other son namely, Arghyabir Saha is prosecuting his studies in VIT-AP



University for which, money towards his course fee is required, which his wife is unable to arrange. Therefore, if the petitioner is released, he can mortgage his house and property and arrange necessary finance for his son's treatment and other son's education. Certain medical prescriptions and the provisional admission letter of VIT-AP University have been enclosed to the application.

4. An affidavit in opposition has been filed by the CBI. Interestingly, even though the IA itself comprises of only three paragraphs, the affidavit in opposition runs into as many as twenty-two paragraphs with averments made in detail regarding the facts of the case and the involvement of the petitioner. Be that as it may, it is stated that the son of the petitioner is already being treated at Apollo Multi Speciality Hospital under the head of the Pediatric Department namely, Doctor Amitav Pahari, who is a renowned Pediatrician in the State of West Bengal. Moreover, the prescriptions are of the year 2023 only and do not support the contention that the patient requires further treatment. As regards the education expenses of his elder sons it is stated that he is pursuing third year of



his course and therefore, the major chunk of expenses would already have been met from out of the sources available with the petitioner. That apart, there are other resources to meet such expenses such as availing education loan etc. On such grounds, the prayer for interim bail has been opposed besides citing the ground of involvement of the petitioner in an economic offence of such magnitude.

5. Mr. Kanungo, learned Senior counsel would argue that the petitioner has in the meantime spent more than 8 years in custody and there is no chance of the trial being concluded in the near future. Moreover, the petitioner's son requires treatment which entails huge expenditure, which in the absence of the petitioner, his wife would not be able to arrange. Similar is the case with his other son's educational expenses. The petitioner further undertakes to abide by any conditions that may be imposed by the Court if he is directed to be released on bail.

6. Mr. S. Nayak has vehemently opposed the prayer for interim bail citing more or less the same grounds as are stated in the affidavit in opposition. He further submits



that the petitioner may flee from justice if released on bail. As regards the delay in conclusion of trial. Mr. Nayak would argue that same cannot be attributed to the prosecution.

7. I have carefully considered the rival contentions and have also carefully gone through the materials on record. The prayer being for release of the petitioner on interim bail on certain specific grounds cited, this Court does not deem it necessary to go into the merits of the allegations. As already stated, the petitioner's application for regular bail has already been rejected by this Court by order dated 28.03.2022. The medical prescriptions, prima facie, show the truth in the contention of the petitioner as regards the illness of his minor son. The CBI has not disputed the factum of illness of the petitioner's son nor questioned the genuineness of the prescriptions. It is only stated that the child being already under treatment of a renowned doctor, the petitioner's presence may not be necessary. Similar, is the case with the petitioner's elder's son as the CBI has not disputed the fact that the boy is pursuing studies in VIT-AP University. It would therefore,



be reasonable to suppose that necessary expenses have to be incurred both for treatment of the younger son and education of the elder son of the petitioner. It is nobody's case that the family of the petitioner has any other source of income.

8. From the foregoing narration, this Court finds that there being prima facie proof of the requirement of the petitioner's presence in the family for the purpose of arranging finances to meet the treatment and educational expenses of his children, a lenient view can be taken.

9. For the foregoing reasons therefore, the I.A. is allowed. It is directed that the petitioner shall be released on interim bail for a period of 3 months from the date of his actual release on such terms and conditions as may be fixed by the Court in seisin over the matter in the aforesaid case including the following conditions:

(i) He shall surrender his passport before the trial Court prior to his release.

(ii) He shall personally appear before the trial Court on each date of the posting of



the case without seeking representation through counsel.

(iii) He shall furnish his contact number, address and location details to the trial Court as well as the I.O. at the time of his release from custody.

(iv) He shall not try prior to gain over or influence any prosecution witness.

After expiry of the aforesaid period of three months, the petitioner shall surrender before the Court in seisin over the matter, failing which appropriate warrant may be issued for his production.

10. Urgent certified copy of this order be granted on proper application.

11. List the BLAPL on 18.12.2024.

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Sashikanta Mishra,
Judge

Deepak

Signature Not Verified

Digitally Signed
Signed by: DEEPAK PARIDA
Reason: Authentication
Location: OHC, Cuttack
Date: 27-Aug-2024 11:27:26

