(2024) 04 OHC CK 0201

In the Orissa High Court

Case No : Bail Application No. 2417 Of 2024

Abdul Rahaman @ Abdul Rehman @ Abdul — APPELLANT

Vs

Vs State Of Orissa — RESPONDENT

Date of Decision : 23-04-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 41(c), 173, 173(2)
Indian Penal Code, 1860 — Section 419, 420

Citation : (2024) 04 OHC CK 0201

Hon'ble Judges : S.S. Mishra, J

Bench : Single Bench

Advocate : S.P. Das, B.K. Ragada

Final Decision : Disposed Of

Judgement

S.S. Mishra, J

1. The petitioner is an accused in connection with Cyber Crime & Economic Offences P.S. Case No.131 of 2023 corresponding to C.T. Case No.2081 of 2023 for the offences under Sections-419/420 IPC pending in the Court of the learned S.D.J.M., Bhubaneswar.

2. The petitioner is in custody since 23.12.2023. The charge sheet qua the petitioner has already been filed by the police on 19.02.2024. The police has filed charge sheet, INTER ALIA, stating that this is a scam and the petitioner is a party to the entire scam. The preliminary charge sheet reveals as under:

"During course of investigation, it is ascertained that accused Prasanjit Dash was working as Direct Sales Agent to provide home loan, personal insurance, credit card. Ankita Sahoo was also assisted Prasanjit Das in this regard. She had kept all information about the credit customers. Earlier to this, Ankita Sahoo was working at SBI credit card section. Both accused persons were edited the original credentials of credit cards of customers and applied for new credit cards against own mobile number. Filled up application was sent by Ankita Sahoo to Pradeep

Samantaray for verification through live photo & contact number and approval. But Pradeep Samantaray had forged the signature of his immediate superior Pallavi Madam without her consent and knowledge, who is the final approval authority of credit card. After activation of credit card, Prasanjit Dash came in contact with accused Mukesh Mantri, who had worked in Real Estate & worked as an agent and he had suggested the name of accused Biju Tripathy who was kept percentage on each amount of transaction made from credit card through hospital billing counter. In this scandal, the petitioner and the accused Rajesh Kumar Dash of Apollo hospital and handed over the amount after taking the commission.

During investigation, the following articles were seized from the exclusive possession of accused persons Prasanjit Dash, Biju Tripathy:

(i) 6 mobile phones

(ii) 450 credit cards & debit cards (iii)50 Cheque Books

(iv)78 Pass Books

(v)Money receipt generated from swipe machines

(vi) Cash of Rs.7,07,870/-

(vii) 6 Swipe machines."

The co-accused persons are absconding. Therefore, the prosecution has kept the further investigation open under Section-173(2) Cr.P.C.

3. Learned counsel for the petitioner submits that in so far as co-accused Ankita Sahoo is concerned, the police issued notice under Section 41(c) Cr.P.C. and she was admitted to bail subsequently. One of the co-accused persons namely Pradeep Kumar Samantaray has also been enlarged on bail by this Court vide order dated 01.03.2024 while allowing BLAPL No.586 of 2024. The petitioner is seeking parity with the accused persons.

4. The role of the petitioner in the scam is more or less the same. Two co-accused persons have already been granted bail. Preliminary charge sheet has already been filed in the present case.

5. In so far as the absconding accused persons are concerned, the further investigation in the present case has been kept open.

6. Mr. Ragada, learned Addl. Government Advocate appearing for the State submits that this is a scam involving more than Rs. 7 lakhs and in so far as the present accused is concerned, the investigation qua him has already been completed. No more custody is required in so far as the present petitioner is concerned. However, he submits that since it is a big scam and the further investigation has been kept open, his cooperation during the further investigation is essential in the present case. Accordingly, if this Court inclines to grant bail to the petitioner, stringent condition should be imposed against the petitioner.

7. The petitioner had approached the learned 1st Addl. Sessions Judge-cum-Special Judge (Vigilance), Bhubaneswar praying for grant of bail. The learned Court below vide its order dated 01.03.2024 has rejected the bail application of the petitioner. Being aggrieved, the petitioner has filed the present petition under Section 439 Cr.P.C. praying for enlargement on bail.

8. Taking into consideration the period of custody since 23.12.2023, the allegation against the petitioner and the fact that all other co-accused persons have already been enlarged on bail and the charge sheet has already been filed in this case, I am inclined to admit the petitioner on bail.

Hence, the petitioner be released on bail by the learned Court in seisin over the matter in the aforesaid case on such terms and conditions as it would deem just and proper subject to the following additional conditions:

(i) The petitioner shall report before the Investigating Officer of the case as and when required during the further investigation of the case.

(ii) He shall appear before the I.I.C., Cyber Crime & Economic Offence P.S., Bhubaneswar every Sunday till the further investigation is completed and the final charge sheet under Section 173 Cr.P.C. is filed by the investigating agency.

(iii) He shall not involve himself in similar types of offences.

(iv) He shall cooperate with the investigation.

(v) He shall not tamper with the evidence in any manner whatsoever.

(vi) He shall not leave the country without permission from the trial court.

Violation of the bail conditions shall entail consideration for cancellation of the bail granted to the petitioner.

9. The BLAPL is accordingly disposed of.

…………………………….

