

(2023) 12 OHC CK 0148

In the Orissa High Court

Case No : Bail Application No. 10500 Of 2023

Manoj Mohapatra @ Manoj Kumar Mohapatra

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 22-12-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 406, 420, 426

Citation : (2023) 12 OHC CK 0148

Hon'ble Judges : Dr. S.K. Panigrahi, J

Bench : Single Bench

Advocate : Y. Dash, Nirmal Chandra Mohanty, Ch. Satyajit Mishra

Final Decision : Disposed Of

Judgement

Dr. S.K. Panigrahi, J

1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. Petitioner being in custody in connection with Air Field P.S. Case No. 176 of 2016 corresponding to C.T. Case No. 3082 of 2016 arising out of 1CC Case No.2841 of 2015, pending in the court of the learned J.M.F.C. (Cog-1I), Bhubaneswar, has filed this petition under Section 439 of the Cr.P.C. for his release on bail. The offences alleged against him is punishable under Sections 406, 420 & 426 of the I.P.C..
4. The factual matrix of the case is that complainant i.e. the Secretary Andhra Bank Employees Housing Cooperative Society Ltd., Odisha had filed a complaint stating therein that the Society had required 10 acres of land for residential purpose for the members of the Society within Bhubaneswar Town Planning Area. The accused who was the Managing Director of the Firm "Hindustan Developers" offered his willingness to provide 10 acres of land to complainant's Society from

their project namely Hindustan Valley. The complainant Society agreed with the proposal and also executed a MoU to that effect. The accused persons in the said MoU agreed for making sub-plots of 2400 sq.ft. each of 30 ft. wide main road and 20 ft. wide branch road by leveling it with 1.5 inch moharum and to demarcate the same with individual boundary. Thereafter, they promised to register the sub-plots in the name of the members of the complainant society and handover the possession from 15.08.2010. The complainant Society released payments in favour of the accused on different dates amounting to ₹ 5,16,59,000 in good faith and the same had been acknowledged by the accused on different dates through money receipts. Although the registration of Sale Deed was over but the accused did not take any interest for demarcation, construction of boundary walls, providing roads and handed over the possession to the members of the society. It was alleged that the accused had grabbed the entire amount in broad day light to cheat the complainant Society and caused great financial hardship to it. Accordingly, the investigation had been taken up and after completion of investigation, prima facie materials found against the accused under Sections 406, 420, 426 of the I.P.C.

5. Learned counsel for the petitioner submits that chargesheet in this case had already been submitted before the court below. The petitioner has been in custody since 26.06.2019. He further submits that the trial in this case is not complete.

6. Learned counsel for the State vehemently opposed the bail prayer of the petitioner.

7. Considering the facts and submissions made and on going through the materials available on record, further keeping in view the surrounding circumstances including the period of detention of the Petitioner in custody and the fact that the trial has not yet been completed, it is directed that the Petitioner be released on bail in the aforesaid case by the court in seisin over the matter on such terms and conditions as deemed just and proper including the conditions that:

- i. the Petitioner shall appear before the trial court on each date of posting of case;
- ii. he shall not indulge in any kind of criminal activity during bail period and shall not tamper with the evidence of prosecution witnesses in any manner.
- iii. he shall appear before the Air Field Police Station on Monday of every fortnight in between 10.30 A.M. to 1.00 P.M.

8. Violation of any of the conditions shall entail cancellation of the bail.

9. Accordingly, the BLAPL is disposed of.

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

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