



IN THE HIGH COURT OF ORISSA AT CUTTACK
ABLAPL No.14482 of 2024

1. V. Venu @ Veliseti **Petitioners**
Benu
2. Bhagaban Panigrahi
Mr. D. Panda, Advocate

-versus-

1. State of Odisha **Opposite Parties**
2. Mrs. Banaja Panda
Mr. S. Panigrahi, ASC
Ms. B. Mishra, Adv. (Informant)

ABLAPL No.14494 of 2024

Manish Agarwal **Petitioner**
Mr. D. Panda, Advocate

-versus-

1. State of Odisha **Opposite Parties**
2. Mrs. Banaja Panda
Mr. S. Panigrahi, ASC
Ms. B. Mishra, Adv. (Informant)

ABLAPL No.14753 of 2024

Prakash Chandra Swain **Petitioner**
Mr. B.R. Behera, Advocate

-versus-

1. State of Odisha **Opposite Parties**
2. Mrs. Banaja Panda
Mr. S. Panigrahi, ASC
Ms. B. Mishra, Adv. (Informant)



CORAM: JUSTICE V. NARASINGH

DATE OF HEARING :22.04.2025

DATE OF JUDGEMENT: 25.04.2025

V. Narasingh, J.

1. Since all the ABLAPLs relate to Malkangiri P.S. Case No. 401/2020 corresponding to G.R. Case No. 850/2020 on the file of the learned S.D.J.M., Malkangiri are taken up together for consideration and are disposed of by this common judgment.

2. Heard Mr. D. Panda, learned counsel for the Petitioners in ABLAPL Nos.14482 of 2024 and 14494 of 2024, Mr. B.R. Behera, learned counsel for the Petitioner in ABLAPL No.14753 of 2024 and Mr. S. Panigrahi, learned counsel for the State and Ms. B. Mishra, learned counsel for the Informant.

3. The Petitioners are seeking pre-arrest bail in connection with G.R. Case No.850 of 2020 pending on the file of learned S.D.J.M., Malkangiri, arising out of Malkangiri P.S. Case No.401 of 2020 for commission of offences punishable under Sections 306/120-B/34 of IPC



4. The factual backdrop of the case at hand is that one Debendra Narayan Panda working as P.A. to the Petitioner (Manish Agarwal, IAS) in ABLAPL No.14494 of 2024, who was, then the Collector of Malkangiri and Petitioner No.1 (V. Venu @ Veliseti Benu) in ABLAPL No.14482 of 2024 was a Data Entry Operator, Petitioner No.2 (Bhagaban Panigrahi) in ABLAPL No.14482 of 2024 is a stenographer in the said Collectorate and the Petitioner (Prakash Chandra Swain) in ABLAPL No.14753 of 2024 presently working as Personal Assistant to the Collector.

4-A. The said Mr. Debendra Narayan Panda went missing on 27.12.2019 and his deadbody was recovered on 28.12.2019 by a search team of Malkangiri Police and Fire Brigade.

5. Relating to the death of said Mr. Panda initially a U.D. case was registered which ended in final report. The Opposite Party No.2 herein, the widow of the deceased filed 1 C.C. No.20 of 2020 which was sent for investigation under Section 156(3) of Cr.P.C. and accordingly, Malkangiri P.S. Case No. 401/2020 under Section 302/506/201/204/120B/34 of IPC was registered and investigation was taken up by the Crime



Branch. After investigation, Crime Branch on 10.11.2022, filed final report.

5-A. Being aggrieved, a protest petition was filed by the Opposite Party No.2, the widow of the deceased and on 19.12.2022 after her examination under Section 200 Cr.P.C. the learned Magistrate took cognizance under Section 302/506/201/204/120-B/34 of IPC and thereafter, after examination of few witnesses including the son and the daughter of the deceased, the elder brother of the deceased and an independent witnesses, closure memo was filed by the complainant and on **13.01.2023 learned S.D.J.M issued summons to the Petitioners to appear.**

6. Assailing the order dated 11.01.2023 passed by the learned S.D.J.M. taking cognizance of offences under Sections 302/506/201/204 read with 120-B/34 of IPC and also issuance of summons by order dated 13.01.2023 by the learned S.D.J.M., was assailed by the Petitioners in ABLAPL No.14482 of 2024 and 14494 of 2024 by filing CRLMC No.922 of 2023 and CRLMC No.551 of 2023 respectively.

They were disposed of by a common judgment dated 22.06.2023 by this Court recording the findings as under;



"Findings

31. On a conspectus of the analysis of facts and law made hereinbefore, this Court is of the considered view that the offences punishable under Sections 302/506/201/204 of I.P.C. are prima facie, not made out. However, there are enough materials to at least, prima facie, proceed against the accused persons for the offences under Sections 306/120-B/34 I.P.C. The impugned order warrants modification accordingly.

32. In the result, the CRLMCs are allowed in part. The impugned order is modified only to the extent of substitution of the offences under Sections 302/506/201/204 I.P.C. by the offences under Sections 306/120-B/34 of I.P.C. The Court below is directed to proceed accordingly and to try and dispose of the case as expeditiously as possible preferably, within eight months."

7. Assailing the said judgment, the Petitioner (Manish Agarwal) in ABLAPL No.14494 of 2024 and the Opposite Party No.2 filed SLP No.10523 of 2023 and SLP No.14496 of 2023 respectively.

8. By order dated 19.11.2024, the Apex Court dismissed the SLP(s). For convenience of reference the order dated 19.11.2024 of the Apex Court is extracted hereunder;



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We are not inclined to interfere with the impugned order(s).

The Special Leave Petitions are, accordingly, dismissed.

However, we make it clear that the observations made by the High Court, being prima facie in nature, will not have a bearing on the pending trial.

Pending application(s), if any, shall stand disposed of.

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9. It is submitted with vehemence by the learned counsel, Mr. Panda for the Petitioner in ABLAPL Nos. 14482 and 14494 of 2024 that taking into account the nature of allegations and the background in which the same being leveled and cognizance having been taken on a protest petition, since further custodial interrogation is unwarranted, Petitioners should be protected by pre-arrest bail.

10. It is the further submission of the learned counsel for the Petitioners, Mr. Panda that the Petitioners have reasonable apprehension that if they appear before the learned Court, they will be remanded to custody, inter alia, on the ground that offence under Section 306 IPC is triable by the Court of Sessions.



11. Learned counsel Mr. Behera appearing for the Petitioner (Prakash Chandra Swain) in ABLAPL No.14753 of 2024 adopts the submissions made.

12. Learned counsel for the State, Mr. Panigrahi as well as Ms. Mishra, learned counsel for the informant oppose the prayer.

12-A. It is the submission of the learned counsel appearing for the Informant that the Petitioners (V. Venu @ Veliseti Benu and Bhagaban Panigrahi) in ABLAPL No.14482 of 2024 and Petitioner (Manish Agarwal) in ABLAPL No.14494 of 2024 are trying to avoid the process of the Court on some pretext of the other and in view of the dismissal of the SLP(S) referred to herein above, they ought not to be protected by pre-arrest bail.

13. To fortify his submission, learned counsel for the Petitioners Mr. Panda, relied on the judgment of the Apex Court in the Case of **Mahdoom Bava vs. Central Bureau of Investigation, 2023 SCC OnLine 299.**

14. Drawing a parallel from the factual matrix in the case of **Mahdoom Bava (Supra)**, it is submitted by learned counsel Mr. Panda that in the case at hand it is not the investigating agency which is seeking custody but the Petitioners



apprehend that they may be remanded to custody at the behest of the Trial Court. Hence, it is submitted that Petitioners are entitled to pre-arrest bail.

15. Learned counsel for the Petitioners has also relied on the judgment of the Apex Court in the case of **Bharat Chaudhary and another vs. State of Bihar and another, (2003) 8 SCC 77** to support his submission that in the facts scenario as it stand there is no embargo on exercise of jurisdiction by this Court in entertaining and granting anticipatory bail.

16. Learned counsel for the Petitioners have also relied on the order of the Apex Court dated 16.11.2021 in SLP (Crl.) No.6057 of 2021 to strengthen their submission that there are no fetters on the powers of this Court to grant anticipatory bail and order of the Apex Court not entertaining the challenge to the order of cognizance to offence under Section 306 IPC ought not to deter this Court from exercising such jurisdiction.

16-A. Mr. Behera, learned counsel appearing for the Petitioner (Prakash Chandra Swain) in ABLAPL No.14753 of 2024 adopts such submission.



17. Learned counsel for the Informant, Ms. Mishra, submits that the above judgments have no application in the facts of the present cases. Since from the very inception, the investigation is being done in a cavalier manner, since one of the accused is a member of Indian Administrative Service. It is only because of the relentless pursuit of the hapless widow that ultimately cognizance was taken under Section 302 of IPC and other allied section which stood modified, inter alia, under Section 306 of IPC by this Court in CRLMC as referred to herein above and ultimately stood the scrutiny of the Apex Court which, unerringly goes to establish that there is prima facie case against the Petitioners under Section 306 of IPC.

Hence, they ought not to be granted the relief of pre-arrest bail and they should submit to the procedure established by law and it is further submitted that on some pretext or the other, the Petitioners are trying to evade the same and in this context the learned counsel for the Informant submits that the Petitioners (V. Venu @ Veliseti Benu and Bhagaban Panigrahi) in ABLAPL No.14482 have filed CRLREV No.80 of 2025 assailing the order dated 24.12.2024 passed by the learned Magistrate rejecting the petition under Section 205 Cr.P.C which is not being pursued and



they filed CRLMC No.689 of 2025 assailing the order dated 29.01.2025 issuing NBW by the learned Magistrate and the matter is pending adjudication. And, on the prayer of the learned counsel for the Petitioner was last adjourned to 09.04.2025.

18. It is submitted that the Petitioner (Manish Agarwal) in ABLAPL No.14494 of 2024 similarly has filed CRLREV No.62 of 2025 wherein by order dated 07.02.2025 interim order has been passed directing that issuance of NBW dated 01.02.2025 in the case at hand shall remain stayed and the matter is pending consideration.

It is submitted that in view of the interim order passed directing stay of NBW dated 01.02.2025, the Petitioner (Manish Agarwal) in ABLAPL No.14494 of 2024 has no perceptible threat of arrest and on this count alone the ABLAPL is liable to be rejected.

18-A. It is further submitted that CRLMC No.338 of 2025 has been filed at the behest of the Petitioner (Manish Agarwal) in ABLAPL No.14494 of 2024 with the following prayers;

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The Petitioner therefore humbly prays that this Hon'ble Court be pleased to admit



this petition for hearing, call for the records, issue notice to the Opposite Parties and after hearing the parties be pleased to quash order dt. 03.08.2023 substituting cognizance of offences from u/s. 302/506/201/204 IPC to u/s.306/120-B/34 IPC as well as further proceedings therein by exercising inherent powers in I.C.C. No. 20/2020 corresponding to G.R. Case No. 850/2020 arising from Malkangiri P.S Case No 401/2020 on the file of Id. S.D.J.M. Malkangiri;

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19. It is the submission of the learned counsel for the Informant that after dismissal of the SLP(s) confirming the order taking cognizance under Section 306/120-B/34 of IPC, the aforementioned prayer at the behest of the Petitioner (Manish Agarwal) in ABLAPL No.14494 of 2024 is nothing but an abuse of process of law and is indicative of his devious modus operandi to avoid appearance before the learned Magistrate.

20. It is apt to note that recently the Apex Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and another, 2023 SCC OnLine SC 452** by its order dated 21.03.2023 referring to the judgment cited by the learned counsel for the Petitioners **Mahdoom**



Bava (Supra) clarified that the principles as enunciated regarding bail would apply in equal measure to applications of anticipatory bail. For convenience of ready reference the clarification of the Apex Court is quoted hereunder;

“.....We would like to clarify that what we have enunciated qua bail would equally apply to anticipatory bail cases. Anticipatory bail after all is one of the species of a bail.

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20-A. Hence, the prayer of the Petitioners for pre-arrest bail have to be considered on the touchstone of the aforementioned clarification.

21. In its recent pronouncement, the Apex Court has extensively elucidated the factors which should weigh, in considering an application for grant of anticipatory bail in the case of **Serious Fraud Investigation Officer vs. Aditya Sarda, 2025 SCC OnLine SC 764 (2025 INSC 477)**.

In the said judgment, the Apex Court has reiterated that grant of anticipatory bail is an exceptional remedy and should be exercised only in exceptional cases and not as matter of course (Ref: **Srikant Upadhyay and Others vs. State**



of Bihar and another, (2024) SCC OnLine SC 282).

22. This Court is conscious that the judgment of the Apex Court in the **Serious Fraud Investigation Officer (Supra)** was dealing with economic offence whereas, in the considered view of this Court the allegations in the case at hand are prima facie more heinous. This Court is also not oblivious of to the fact that while considering the prayer for anticipatory bail, there is no straight jacket formula and each case has to be evaluated in the background of facts peculiar and unique to it.

23. In **State of U.P. vs. Poosu, (1976) 3 SCC 1** which was referred to in the case of **Inder Mohan Goswami and another vs. State of Uttaranchal and others, (2007) 12 SCC 1** [referred at page 36] in the case of **Serious Fraud Investigation Officer (Supra)** it was held that "Just as liberty is precious for an individual so is the interest of the society in maintaining law and order. Both are extremely important for the survival of a civilised society."

24. In the **Serious Fraud Investigation Officer (Supra)** the observations of the Apex Court in balancing personal liberty and societal



interest, which is of seminal importance and of relevance, is extracted hereunder;

".....However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights—safeguarding the personal liberty of an individual and the societal interest....."

24-A. It is also apt to quote from the judgment of the Apex Court in **Serious Fraud Investigation Officer (Supra)** that;

".....The law aids only the abiding and certainly not its resisters. When after the investigation, a chargesheet is submitted in the court, or in a complaint case, summons or warrant is issued to the accused, he is bound to submit himself to the authority of law. If he is creating hindrances in the execution of warrants or is concealing himself and does not submit to the authority of law, he must not be granted the privilege of anticipatory bail, particularly when the Court taking cognizance has found him prima facie involved in serious economic offences or heinous offences"

25. In the said case the Apex Court held as under;



"..... It cannot be gainsaid that the judicial time of every court, even of Magistrate's Court is as precious and valuable as that of the High Courts and the Supreme Court. The accused are duty bound to cooperate the trial courts in proceeding further with the cases and bound to remain present in the Court as and when required by the Court. Not allowing the Courts to proceed further with the cases by avoiding execution of summons or warrants, disobeying the orders of the Court, and trying to delay the proceedings by hook or crook, would certainly amount to interfering with and causing obstruction in the administration of justice....."

(Emphasized)

26. The views of the Supreme Court regarding the discretion vested with concerned Court has been reiterated in **Serious Fraud Investigation Officer (Supra)**, referring to the case of **Poosu (Supra)**.

27. Hence, examining the contention of the Petitioners in the backdrop of judicial pronouncement as discussed above, taking into account the nature of allegations and keeping in view that order taking cognizance for offence under Section 306 of IPC stood the scrutiny of the Apex Court, this Court does not find any merit in



the submission of the learned counsel for the Petitioners to grant the exceptional remedy of anticipatory bail respectfully reiterating the observation of the Apex Court at the cost of repetition that "Just as liberty is precious for an individual so is the interest of the society in maintaining law and order. Both are extremely important for the survival of a civilised society", save and except in respect of Petitioner No. 2 (Bhagaban Panigrahi) in ABLAPL No.14482 of 2024.

Accordingly, the ABLAPL in respect of Petitioner No.1 (V. Venu @ Veliseti Benu) in ABLAPL No.14482 of 2024 and Petitioner (Manish Agarwal) in ABLAPL No.14494 of 2024 and Petitioner (Prakash Chandra Swain) in ABLAPL No.14753 of 2024 stand rejected.

28. So far as ABLAPL in respect of Petitioner No.2 (Bhagaban Panigrahi) in ABLAPL No.14482 of 2024 is concerned, taking into account the submission at the Bar that he is aged about 65 years, suffering from cancer and his wife is a psychiatric patient, this Court because of such special features, directs that on surrendering within three weeks hence and moving for bail, Petitioner No.2 (Bhagaban Panigrahi) in ABLAPL



No.14482 of 2024 shall be released on bail by the learned Court in seisin on such terms as deemed just and proper.

29. Accordingly, the ABLAPLs stands disposed of.

(V. NARASINGH)
Judge

*Orissa High Court, Cuttack,
Dated the 25th April, 2025/Santoshi*

Signature Not Verified

Digitally Signed
Signed by: SANTOSHI LENKA
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 25-Apr-2025 19:33:48

