

Bishnupriya Chand @ Hansita vs State Of Odisha Opposite Party on 17 March, 2025

Author: R.K. Pattanaik

Bench: R.K. Pattanaik

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1538 of 2025

Bishnupriya Chand @ Hansita Petitioner
Abhilipsa

Mr. S. Ch. Mohapatra, Senior Advocate
along with Mr. D. Mund, Advocate

-Versus-

State of Odisha Opposite Party

Mr. P.S. Nayak, AGA

And

BLAPL No.1549 of 2025

Anil Kumar Mohanty Petitioner

Mr. B.P. Tripathy, Senior Advocate

-Versus-

State of Odisha Opposite Party

Mr. P.S. Nayak, AGA

CORAM:

MR. JUSTICE R.K. PATTANAIAK

DATE OF ORDER: 17.03.2025

1.

Both the petitions are clubbed together for disposal by the following common order.

2. Instant petitions are filed under Section 483 BNSS seeking release of the petitioners on bail in connection with C.T. Case No.2240 of 2024 pending in the file of learned J.M.F.C.-II, Bhubaneswar corresponding to Infocity PS Case No.611 of 2024 registered under Sections 329(3), 319(2), 318(4), 62 read with 3(5) BNS on the grounds stated.

3. On receiving an intimation dated 26th December, 2024 from an official of the Kalinga Institute of Social Science, Bhubaneswar received by the Deputy Commissioner of Police, Bhubaneswar, Odisha, Infocity PS Case No.611 was registered for the alleged offences. As per the said report, it was informed that the petitioners visited the premises of the said institution and met few senior officials and during such visit, they introduced themselves to be the daughter and son-in-law respectively of Mr. P.K. Mishra, Principal Secretary to the Hon'ble Prime Minister of India and given the high-profile nature of claim and inconsistencies in their statements and behaviour, such claim was found to be suspicious. Upon receiving the above intimation, the investigation was commenced with examination of the informant and during and in course of such investigation, one morphed photograph of the accused, namely, Hansita Abhilipsa with Mr. P.K. Mishra, Principal Secretary to the Hon'ble Prime Minister of India was seized. In course of further investigation, it was revealed that the above-named accused managed to create the morphed picture with the assistance of one Jyoti Prakash Mund. It is alleged that the petitioners with an intention to cheat and pressurize the senior officials and exert undue influence on them, committed such mischief and hence, a prima facie case was established for having committed the alleged offences. The further claim is that the petitioners were issued with notices served in terms of Section 35 BNSS but arrested both of them on 29th December, 2024 after observing necessary paraphernalia in respect thereof. In course of such investigation, the offices of other accused, namely, Anil Kumar Mohanty was searched to ascertain any such documents regarding fraudulent transactions. The claim is that after the office of the said accused was searched, seizures were made in respect of agreements, one MoU etc. The investigation also revealed that the accused, namely, Hansita Abhilipsa with the help of said Jyoti Prakash Mund managed a photograph of her with Mr. Manoj Ahuja, Chief Secretary to Government of Odisha. It has been alleged that the above-named accused is in the habit of morphing her pictures with influential people and used to introduce them to others as their relatives. The investigation revealed the details about the transactions of the companies run by the petitioners. Besides the above, few costly vehicles were seized, while the same having been in possession of the petitioners. It was further revealed that the accused, namely, Hansita Abhilipsa is involved in Badagad P.S. Case No.100 of 2017 registered under Section 506 read with 34 IPC and Section 3 SC & ST (PoA) Act. Due to suppression of having a police record against her and as the name of the accused was changed, which was concealed before the Passport authorities, Infocity P.S. Case No.11 dated 15th January, 2025 was registered under Sections 417, 419, 420, 468 and 471 IPC read with Section 12 of the Passport Act. The investigation revealed that in the year 2022, the petitioners signed an MoU with BSL, Bokaro, a company of Vedanta Group for CSR rehabilitation project worth of Rs.283 crores in the name of four companies, namely, Simanchala Acharya Company, Saiansh Company, Anil Mohanty & Co. and Hardwik Infra Private Limited and the last three companies to be directly managed by both, while the first one has been managed by the second husband of the accused, namely, Hansita Abhilipsa and in that connection, Rs.29 crores have been paid to them. It is alleged that in view of the high value project in favour of the companies managed by the petitioners, a reasonable suspicion regarding fraud was entertained as a means to acquire the same. During investigation, a bank transaction of Rs. 40 lac was noticed which was between Saiansh Company and MS Ramaiah Institute Technology, Bengaluru paid in connection with admission of the son of a highly placed official of ESL Bokaro. The tax invoices also revealed several transactions to have been taken place with payments made to the companies owned by the petitioners.

4. Heard Mr. Mohapatra, learned Senior Advocate for the petitioner in BLAPL No.1538 of 2025, Mr. Tripathy, learned Senior Advocate for the other accused in BLAPL No.1549 of 2025 and Mr. Nayak, learned AGA for the State.

5. The release of the petitioners is demanded on the ground that there has been no case made out against them. It is submitted that the offences are triable by a Magistrate First Class and maximum punishment prescribed for the same is up to seven years of imprisonment and that apart, both are permanent residents staying within the limits of the PS and hence, there is no chance of their absconding or avoiding or tampering with the evidence. In course of hearing, Mr. Mohapatra, learned Senior Advocate submits that none of the witnesses examined ever stated anything adverse against the accused, namely, Hansita Abhilipsa, hence, no case of cheating by personation is established especially for the purpose of fetching high value contracts. The submission of Mr. Mohapatra, learned Senior Advocate is that even assuming for the sake of argument that a case is made out though not admitted, it would be one of misrepresentation but not impersonation for the purpose of cheating or attempting to cheat someone and therefore, under such circumstances, there is no justification to detain the accused, namely, Hansita Abhilipsa. It is contended that after registration of the case, though, statements of witnesses have been recorded under Sections 180 and 183 BNSS but the same have not revealed or in any way proved that the accused ever duped any company by impersonation. It is further contended that the companies managed by the petitioners maintain all records having regular audits and there has been no allegation, as such, from any individual or company at any point of time for having been cheated or subjected to any fraud and therefore, the arrests made is based on mere suspicion without any legal evidence clearly in violation of their right to life and liberty guaranteed under Article 21 of Constitution of India. Similar argument has been advanced by Mr. Tripathy, learned Senior Advocate for the accused, namely, Anil Kumar Mohanty. The contention is that no case of cheating by personation is proved and established against the accused persons, hence, therefore, both are to be released with any conditions.

6. On the contrary, Mr. Nayak, learned AGA for the State vehemently objected release of the petitioners on the ground that the alleged mischief committed by them was revealed during investigation. The submission of Mr. Nayak, learned AGA is that the petitioners identifying themselves as the daughter and son-in-law of a high-profile figure successfully managed to influence many while running the business of the companies and in one of such instances, had managed to procure a contract with ESL, Bokaro and in that connection, an MoU was signed with a project worth Rs.283 crores. The contention is that the petitioners by impersonation managed to create a clout and the MoU with the company in question and even received Rs.29 crores in advance. As the conduct and mischief by the petitioners has been revealed with the seizure of the morphed pictures and other documents and they are involved in running business concerns with high value projects, it is made to suggest that all such activities have been managed identifying them as relatives of prominent persons and as the further investigation is in progress, they should not be enlarged on bail.

7. Upon such revelation made during investigation and the fact that an income tax raid was conducted at the residence and the premises of the offices of the companies run by the petitioners at

Bhubaneswar, Bokaro and other cities and that ED has sought details of the case and connected seizures to investigate any such offences being committed under the Prevention of Money Laundering Act and multiple agencies are into the investigation, the release of the petitioners has been opposed.

8. In course of hearing, Mr. Mohapatra, learned Senior Advocate for the accused, namely, Hansita Abhilipsa would submit that notice under Section 35 BNSS was issued with an intimation for her to appear at the PS by 2nd January, 2025 but all of a sudden, she was called along with the co-accused on 29th December, 2024 and was arrested and forwarded to the court of learned court below and as such, the action is arbitrary and legally cannot be justified. In reply and response to the above, Mr. Nayak, learned AGA would submit that the petitioners since did not co-operate in response to the notice issued to them, no option was left except to arrest both. The details of the circumstances leading to the arrest of the petitioners is not revealed from the case diary. Admittedly, the petitioners were to appear in response to such notice on or before 2nd January, 2025 but have been arrested on 29th December, 2024. As to what prevailed upon the IO to arrest the accused persons before 2nd January, 2025 is not revealed from the record. Rather, the case diary reveals that the petitioners were since found to be involved in such nefarious activities by impersonation and in fact, created evidence in helping them identify as relatives of a prominent person and intention was to cheat and fraudulently pressurize and influence officials in order to get sanction of funds to be the cause of their arrest.

9. Mr. Nayak, learned AGA for the State apart from the mischief committed by the petitioners submits that the accused, namely, Hansita Abhilipsa is also involved in engaging girls for prostitution which is revealed during investigation.

10. The following decisions have been cited at the Bar, such as, Kalyan Chandra Sarkar Vrs. Rajesh Ranjan alias Pappu Yadav and another (2004) 7 SCC 528; Y.S. Jagan Mohan Reddy Vrs. Central Bureau of Investigation (2013) 7 SCC 439; and Manik Madhukar Sarve and others Vrs. Vitthal Damuji Meher and others (2024) 10 SCC 753. Mr. Nayak, learned AGA for the State referring to the decision in Y.S. Jagan Mohan Reddy (supra) submits that no laxity should be shown in respect of economic offences as according to the Apex Court, the same constitutes a class apart, hence, a different approach is needed, while considering the matters of bail. The contention is that the petitioners since are involved in such mischief and apparently managed the contract from ESL, Bokaro by impersonation and as investigation is still on, no case is made out for bail as a criminal conspiracy to commit such offences is prima facie made out, as in the meantime, a preliminary chargesheet is filed against both keeping the investigation open under Section 193 BNSS.

11. In Y.S. Jagan Mohan Reddy (supra), the Apex Court held that the economic offences having deep rooted conspiracy and involving huge loss of public fund need to be handled sternly and while granting bail, the Court has to keep in mind the nature of accusation and evidence in support thereof; severity of punishment; character of the accused; circumstances peculiar to the accused; reasonable possibility of securing the presence of the accused at the trial, apprehension of the witnesses being tampered with and the larger interest of public with such other similar considerations. In Kalyan Chandra Sarkar (supra), it is held by the Apex Court that law in regard to

grant or refusal of bail is well settled and while granting, the Court should exercise its discretion in a judicious manner and not as a matter of course and though, at that stage, a detailed examination of evidence and elaborate documentation on the merit of the case need not be undertaken but there is only a need to indicate in such orders, reasons for prima facie concluding while bail has been granted particularly where the accused is charged of having committed a serious offence and any order devoid of such reason would suffer from non-application of mind. Bail is the rule and jail is an exception and this basic principle of criminal jurisprudence was laid down by the Apex Court in *State of Rajasthan, Jaipur Vrs. Balchand @ Baliay* AIR 1977 SC 2447. The aforesaid principle finds its origin from Article 21 of the Constitution of India though the underlying object behind detention of a person is to ensure easy availability of an accused during trial without any inconvenience, however, in case, the presence of an accused can be secured otherwise, in that case, detention is not necessary. While considering a request for bail, it is well settled law that the Courts shall also have to take into account the fundamental precept of criminal jurisprudence, such as, the presumption of innocence besides the gravity of offences involved. In *Gudikanti Narasimhulu and others Vrs. Public Prosecutor, High Court of A.P.* (1978) 1 SCC 240, it has been observed that the issue of bail is one of liberty, justice, public safety and burden of the public treasury which insist that a developed jurisprudence of bail is integral to a socially acceptable judicial process. It is further held therein that after all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. In *Gurcharan Singh and others Vrs. State (Delhi Administration)* 1978 1 SCC 118, it has been observed that there cannot be an inexorable formula in the matter of granting bail and the facts and circumstances of each case influence the exercise of judicial discretion in granting or cancelling bail. On a reading of the decisions referred to hereinabove, it is clear that the question, whether to grant bail or not, depends on a variety of circumstances, with the cumulative effect of which, the conclusion is to be reached at. In *Siddharam Satlingappa Mhetre Vrs. State of Maharashtra and others* AIR 2011 SC 312, the Apex Court insisted upon striking a perfect balance of individual's liberty in juxtaposition to the interest of the society in granting or refusing bail.

12. As to the case at hand, the allegation in specific is that the petitioners identified themselves as relatives of a prominent figure and alleged to have run the business and managed to obtain a project from BSL Bokaro with such other criminal activities still to be unearthed. The complaint is not about cheating by personation lodged by the company with whom an MoU has been entered into and executed. The record reveals that the petitioners are involved in running companies alleged to be dubious characters since impersonation was detected. As far as the MoU is concerned, the same is related to a project in connection with which an advance payment of Rs.29 crores has been made. It is made to suggest that with undue influence exerted on the company of Vedanta Group with impersonation, perhaps, the MoU was managed. However, at no point of time, anyone from ESL, Bokaro lodged complaint against the petitioners alleging cheating by personation. Rather, in course of investigation, after intimation received from an official of the KISS and during investigation, it was revealed about their false introduction and in that connection, the senior officials of the company of ESL, Bokaro claimed them to have initially identified themselves as relatives of Mr. P.K. Mishra, Principal Secretary to the Hon'ble Prime Minister of India. There is no denial to the fact that morphed pictures have been seized during such investigation. It is also not in denial that the companies run by the petitioners have had high value transactions alleged to be with suspicious

sources of income. In fact, a suspicion has been entertained during the investigation that the petitioners could be involved in any such activities by fraudulent means and impersonation with an intent to acquire proprieties. One of the accused persons, namely, Anil Kumar Mohanty is the Director of two of the companies and it is alleged that in such capacity, there was fraudulent investment with other companies involving tax evasions and hence, notices under the IT Act have been issued by the Income Tax Department. As such, the allegation is that the petitioners appear to have introduced themselves as relatives of a prominent personality in order to impress upon and create undue influence on officials and it is claimed that in the event of their release, both might resort to similar kind of activities.

13. In so far as the decision in Y.S. Jagan Mohan Reddy (supra) is concerned, the Apex Court held that a different standard and approach should be adopted in respect of the economic offences. In the said case, there was large scale transactions and transfer of money with the allegation that one of the accused persons therein as a means of quid pro quo to the investments exerted influence and facilitated such transfers. Considering the magnitude of the crime and the high-profile status of the accused involved and as the investigation was under way, the Apex Court, with the conclusion that economic offences do need a different kind of approach and possess serious threat to the financial health of the country, was inclined to grant bail. However, in the present case, though there has been an MoU with a company and several transactions have taken place with accumulation of valuable assets by the petitioners, the investigation with regard to tax evasion or any such offences to have been committed for which the Enforcement Directorate has taken cognizance of, the Court is of the view that all such transactions since are on record and in the meantime, the preliminary chargesheet is filed, the facts are distinguishable from the decision in the case of Y.S. Jagan Mohan Reddy. Furthermore, the Court finds that substantial part of investigation to be over since the preliminary chargesheet is filed in the meantime. The petitioners are local residents and are involved in running business with companies located in the State and outside, hence, there is a remote chance of tampering with the evidence. In so far as the MoU, the company in question did not allege any such mischief regarding impersonation. At the same time, the Court finds that transactions have taken place on paper with regard to the contract with the alleged company in respect of which necessary seizures of all such relevant documents have been made. It is not that the petitioners have so much of clout and status to influence the investigation and therefore, if released, might tamper with evidence. That apart, the financial transaction has already been investigated upon, especially with regard to ESL, Bokaro. Since high value transactions have taken place and it was in running the businesses of the companies, the suspicion has been entertained. Whether such suspicion is true or false is only to be exhumed during further investigation. Having reached at such conclusion and keeping in view the legal position discussed herein before, the Court is that the petitioners, who are in custody, since the month of December, 2024, should be allowed to go on bail with suitable conditions and accordingly, it is ordered.

14. In the result, the petitions under Section 483 BNSS stand allowed. Consequently, the petitioners are directed to go on bail in connection with C.T. Case No.2240 of 2024 corresponding to Infocity PS Case No.611 of 2024 subject to them furnishing bail bonds of Rs.50,000/-(rupees fifty thousand) each with one solvent surety each for the like amount to the satisfaction of learned J.M.F.C.-II, Bhubaneswar, who shall be at liberty to impose such other conditions as deemed just and proper in

the facts and circumstances of the case besides the following, such as, they shall not leave the jurisdiction of learned court below without permission and surrender their passports forthwith; shall co-operate the IO concerned in the further investigation, till the same is concluded; and shall not to indulge themselves in such similar mischief after being released. It is made clear that violation of any of the above conditions and further to be imposed by learned court below shall entail cancellation of bail granted to the petitioners.

15. The BLAPLs are disposed of.

16. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)