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HIGH COURT OF ORISA : CUTTACK

Letter No. 9315 (30)

SLP (Criminal) No. 5191 of 2021of
Hon'ble Supreme Court of India.

OFFICE OF THE DISTRICT & SESSIONS JUDGE ★ BOUDH ★ RECEIVED 11/11/21

FROM:

THE JOINT REGISTRAR (JUDICIAL) OF THE HIGH COURT OF ORISSA : CUTTACK

TO:

1. The District & Sessions Judge, Angul.
2. The District & Sessions Judge, Balasore.
3. The District & Sessions Judge, Baragrah.
4. The District & Sessions Judge, Bhadrak.
5. The District & Sessions Judge, Bolangir.
6. The District & Sessions Judge, Boudh.
7. The District & Sessions Judge, Cuttack.
8. The District & Sessions Judge, Dhenkanal.
9. The District & Sessions Judge, Deogarh.
10. The District & Sessions Judge, Gajapati at Paralakhemundi.
11. The District & Sessions Judge, Ganjam at Berhampur.
12. The District & Sessions Judge, Jajpur.
13. The District & Sessions Judge, Jharsuguda.
14. The District & Sessions Judge, Jagatsinghpur.
15. The District & Sessions Judge, Kalahandi at Bhawanipatna.
16. The District & Sessions Judge, Kandhamala at Phulbani.
17. The District & Sessions Judge, Kendrapara.
18. The District & Sessions Judge, Keonjhar.
19. The District & Sessions Judge, Khurda at Bhubaneswar.
20. The District & Sessions Judge, Koraput at Jeypore.
21. The District & Sessions Judge, Mayurbhanj at Baripada.
22. The District & Sessions Judge, Malkangiri.
23. The District & Sessions Judge, Nabarangpur.
24. The District & Sessions Judge, Nayagarh.
25. The District & Sessions Judge, Nuapada.
26. The District & Sessions Judge, Puri.
27. The District & Sessions Judge, Rayagada.
28. The District & Sessions Judge, Sambalpur.
29. The District & Sessions Judge, Sonepur.
30. The District & Sessions Judge, Sundragarh.

Dated, the Cuttack 1.11. 2021

Sir,

I am directed to forward herewith Copy of the Order dtd. 07.10.2021passed in **SLP (Criminal) No. 5191 of 2021**of the Hon'ble Apex Court , arising out of **CRMABA No. 7598 of 2021** of the High Court of Judicature at Allahabad, Uttar Pradesh for your information and necessary action.

Further, I am directed to request you to communicate the said Order to the Presiding Officers of the Sub-ordinate Courts under your judgeship to do the needful.

Yours faithfully

30.10.2021

Joint Registrar (Judl.) , I/C

Enclosures :-

Copy of the Order dtd. 07.10.2021passed in SLP (Criminal) No. 5191 of 2021 – 8 pages.

ITEM NO.15 Court 6 (Video Conferencing) SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 5191/2021

(Arising out of impugned final judgment and order dated 01-07-2021 in CRMABA No. 7598/2021 passed by the High Court Of Judicature At Allahabad)

SATENDER KUMAR ANTIL Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ANR. Respondent(s)

(IA No. 105098/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 105096/2021 - INTERVENTION APPLICATION
IA No. 90323/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 07-10-2021 The matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) **Mr. Sidharth Luthra, Sr. Adv.**
Mr. Akbar Siddique, AOR
Mr. Rajneesh Chuni, Adv.
Mr. Malik Javed Ansari, Adv.
Mr. Chirag Madan, Adv.
Mr. Hardik Rupal, Adv.
Mr. Parv Garg, Adv.
Mr. Adeel Talib, Adv.
Mr. Fareed Siddiqui, Adv.
Mr. Shashank Gaurav, Adv.

For Respondent(s) **Mr. S.V. Raju, Ld. ASG**
Ms. Sairica Raju, Adv.
Mr. Annam Venkatesh, Adv.
Ms. Priyanka Das, Adv.
Mr. Udai Khanna, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr.Vikram Chaudhary, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Pranjal Krishna, Adv.
Mr. E.C. Agrawala, AOR

Signature Not Verified
Digitally signed by Charanjeet Kaur
Date: 2021.10.07 17:19:27 IST
Reason:

Mr. Vikram Chaudhri, Sr. Adv.
Mr. Harshit Sethi, Adv.
Mr. Keshavam Chaudhri, Adv.
Ms. Anzu. K. Varkey, AOR
Ms. Ria Khanna, Adv.
Mr. Kapil Dahiya, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Application for intervention is allowed.

We have been provided assistance both by Mr. S.V. Raju, learned Additional Solicitor General and Mr. Sidharth Luthra, learned senior counsel and there is broad unanimity in terms of the suggestions made by learned ASG. In terms of the suggestions, the offences have been categorized and guidelines are sought to be laid down for grant of bail, without fettering the discretion of the courts concerned and keeping in mind the statutory provisions.

We are inclined to accept the guidelines and make them a part of the order of the Court for the benefit of the Courts below. The guidelines are as under :

"<u>Categories/Types of Offences</u>

A) Offences punishable with imprisonment of 7 years or less not falling in category B & D.

B) Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.

C) Offences punishable under Special Acts

containing stringent provisions for bail like NDPS (S.37), PMLA (S.45), UAPA (S.43D(5), Companies Act, 212(6), etc.

D) Economic offences not covered by Special Acts.

REQUISITE CONDITIONS

1) Not arrested during investigation.

2) Cooperated throughout in the investigation including appearing before Investigating Officer whenever called.

(No need to forward such an accused along with the chargesheet (Siddharth Vs. State of UP, 2021 SCC online SC 615)

CATEGORY A

After filing of chargesheet/complaint taking of cognizance

a) Ordinary summons at the 1st instance/including permitting appearance through Lawyer.

b) If such an accused does not appear despite service of summons, then Bailable Warrant for physical appearance may be issued.

c) NBW on failure to failure to appear despite issuance of Bailable Warrant.

d) NBW may be cancelled or converted into a Bailable Warrant/Summons without insisting physical appearance of accused, if such an application is moved on behalf of the accused before execution of the NBW on an undertaking of the accused to appear physically on the next date/s of hearing.

e) Bail applications of such accused on appearance may be decided w/o the accused being taken in physical custody or by granting interim bail till the bail application is decided.

CATEGORY B/D

On appearance of the accused in Court pursuant to process issued bail application to be decided on merits.

CATEGORY C

Same as Category B & D with the additional condition of compliance of the provisions of Bail uner NDPS S. 37, 45 PMLA, 212(6) Companies Act 43 d(5) of UAPA, POSCO etc."

Needless to say that the category A deals with both police cases and complaint cases.

The trial Courts and the High Courts will keep in mind the aforesaid guidelines while considering bail applications. The caveat which has been put by learned ASG is that where the accused have not cooperated in the investigation nor appeared before the Investigating Officers, nor answered summons when the Court feels that judicial custody of the accused is necessary for the completion of the trial, where further investigation including a possible recovery is needed, the aforesaid approach cannot give them benefit, something we agree with.

We may also notice an aspect submitted by Mr. Luthra that while issuing notice to consider bail, the trial Court is not precluded from granting

interim bail taking into consideration the conduct of the accused during the investigation which has not warranted arrest. On this aspect also we would give our imprimatur and naturally the bail application to be ultimately considered, would be guided by the statutory provisions.

The suggestions of learned ASG which we have adopted have categorized a separate set of offences as "economic Offences" not covered by the special Acts. In this behalf, suffice to say on the submission of Mr. Luthra that this Court in *Sanjay Chandra vs.CBI*, (2012) 1 SCC 40 has observed in para 39 that in determining whether to grant bail both aspects have to be taken into account:

a) seriousness of the charge and

b) severity of punishment.

Thus, it is not as if economic offences are completely taken out of the aforesaid guidelines but do form a different nature of offences and thus the seriousness of the charge has to be taken into account but simultaneously, the severity of the punishment imposed by the statute would also be a factor.

We appreciate the assistance given by the learned counsels and the positive approach adopted by the learned ASG.

The SLP stands disposed of and the matter

need not be listed further.

A copy of this order be circulated to the Registrars of the different High Courts to be further circulated to the trial Courts so that the unnecessary bail matters do not come up to this Court.

This is the only purpose for which we have issued these guidelines, but they are not fettered on the powers of the Courts.

Pending applications stand disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)