

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 16622 of 2022

Animesh Chakraborty **Petitioner**
Mr. Srikar Kumar Rath, Advocate

-versus-

State of Odisha **Opp. Party**
Mr. Manoj Kumar Mohanty, ASC

CORAM:
JUSTICE CHITTARANJAN DASH

Order No.

ORDER
05.01.2023

02. 1. Heard learned counsel for the Petitioner and the State.
2. By means of this application, the Petitioner seeks grant of anticipatory bail U/s. 438 of Cr.P.C. in apprehension of arrest for his alleged involvement in the offences under Sections 10(2) of the Aircraft Act-1937 and Section 30-A(a),(c) of the Jagannath Temple Act-1995.
3. Learned counsel for the Petitioner submits that the present Petitioner belongs to Kolkata and he is a freelance tourist all over the country, a You Tube Blogger and a registered drone operator. He used to make documentary photos, videography of places of importance from religious and cultural point of view. He further submits that in order to fulfill his hobby, the Petitioner has purchased a Drone from Kolkata which is the make DJI-Mavic of China made. The Drone has mechanically fitted apparatus and all technologically advanced.

4. He also submits that during his visit to Puri between 8th of September to 10th of September, as a registered Drone-operator he operated the drone to take the over view of the Temple premises and navigated his Drone over the Temple for approximately five minutes, since the App of DGCA did not show the flying zone restriction or red zone and collected the photographs of the Temple surroundings containing the over view of the Temple City and also uploaded the video in his You Tube Channel, but after receiving complaints, withdrew the shared contents feeling the same might hurt the religious sentiments of the lovers of Lord Jagannath faith and belief.

5. It is further contended that in connection with the matter, an F.I.R was lodged by one Netrananda Das, S.I., Singhadwara Police Station, Puri alleging that the Petitioner captured the photographs and got the videography of the Temple and uploaded the same in You Tube channel UNNIFIED and circulated it for commercial purposes despite the fact that the Temple area has been declared as Red Zone area as per Drone Rule 2021 and as such to have committed an offence u/s. 10(2) of the Aircraft Act 1934 and Jagannath Temple Act 30 (A) (4) (c).

6. According to the learned counsel for the Petitioner the F.I.R is vague, as nothing is disclosed in the F.I.R that the DGCA and CEO of Temple Administration to have granted sanction to lodge complaint which is a mandatory provision and the entire exercise is nothing but misuse and colourable exercise of power to penalize, harass and tarnish the image of the Petitioner in public view. He, however, withdrew the video no sooner he received public

comments from his You Tube channel and immediately begged apology in the channel itself. Be that as it may, apprehending an arrest, the Petitioner seeks for the grant of anticipatory bail herein.

7. Mr. Manoj Mohanty, learned Addl. Standing Counsel for the State vehemently opposed the prayer for anticipatory bail of the Petitioner. He submits that the movement of operation of Drone is fully controlled by the DGCA. The Petitioner as Drone operator ought to have regards to the restrictions imposed in the flying of the drone and could not have taken a plea that the DGCA App did not reveal such a restriction. According to learned ASC, the App of DGCA might not have detected the same since the drone was navigated over 400 ft. height and collected photographs and videographs of the temple surrounding, which was uploaded in the YouTube channel of the Petitioner for commercial purposes in utter violation of the relevant law. Mr. Mohanty submitted that it has not only violated the law but also hurt the religious sentiment of the lovers of the Lord of the Universe, Lord Jagannath that squarely attributed the intention of the Petitioner and therefore, the Petitioner is not entitled to the pre arrest bail.

8. Lord Jagannath Temple at Puri has been designated a monument of national importance by the Archaeological Survey and is a centrally protected monument. It is said, such monuments and heritage are treasure for a nation and symbol of pride of our civilization besides the religious belief. They help us to appreciate our past and the level of development, knowledge and thoughts. In a way, they provide life to our past. It is an onerous duty of every individual irrespective of caste, creed, religion and place to protect

and preserve the sanctity, safety and security of such monuments more so when it attaches a belief and sentiment of a cult. Invasion thereto, in absence of a bonafideness under the guise or pretext of ignorance of the rule cannot be taken an excuse. Needless to say that the Lord Jagannath Temple at Puri has been declared as Red Zone under Drone Rule, 2021 as published in Digital Sky platform and amenable to the offence under the 10(2) of the Aircraft Act 1934 and JT Act 30 (A) (4) (c). The attempt of the present Petitioner in violating the Rule, as above, is, prima facie, writ large. It is expected from a law abiding citizen more particularly from a person in the stature of the Petitioner who claim to have gained experience of getting photographs and videograph of the monuments and heritage of importance irrespective of being a tourist or free licenser to adhere to a minimum caution by obtaining permission from the temple authority, if at all he had intention to take the over view of the Temple or its surroundings. Absence of it raises the question of bonafideness. Consequently, keeping in view the submission of the parties, the nature of allegations as emerged from the materials on record, the circumstances appearing, the seriousness and gravity of the offences, this court is not inclined to grant anticipatory bail to the Petitioner. Accordingly the prayer for bail stands rejected and the ABLAPL is dismissed.

(Chittaranjan Dash)
Judge