

A.F.R.



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 5905 of 2025

(In the matter of an application under Articles 226 and 227 of the Constitution of India, 1950).

Bishnupada Sethi and Ors. *Petitioner(s)*
-versus-

Central Bureau of Investigation *Opposite Party (s)*
(CBI), New Delhi and Ors.

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Devashis Panda, Sr. Adv.*
Along with associates

For Opposite Party (s) : *Mr. Sarthak Nayak, Adv.*
(For CBI)

CORAM:

DR. JUSTICE S.K. PANIGRAHI

DATE OF HEARING:-15.05.2025

DATE OF JUDGMENT:-20.06.2025

Dr. S.K. Panigrahi, J.

1. In this Writ Petition, the Petitioners seek a direction from this Court to quash the ongoing investigation initiated by the CBI pursuant to FIR No. RC 2172024A0017, and further pray for return of seized materials and protection from coercive action, alleging procedural illegality, harassment, and violation of fundamental rights.



I. FACTUAL MATRIX OF THE CASE:

- 2.** The brief facts of the case are as follows:
- (i) FIR No. RC 2172024A0017 was registered on 07.12.2024 by the CBI under Section 61(2) of the Bharatiya Nyaya Sanhita, 2023 and Sections 7, 8, 9, and 10 of the Prevention of Corruption Act, 1988. It alleges that Shri Chanchal Mukherjee (Group General Manager, Bridge & Roof Co. Ltd., a CPSU) demanded ₹10,00,000 from Santosh Moharana (Director, M/s Penta A Studio Pvt. Ltd.) as a bribe for clearing project bills and facilitating further contract work.
 - (ii) The CBI laid a trap on 07.12.2024. It is claimed that the bribe amount was received by Mukherjee and subsequently transferred to Debadutta Mohapatra. The cash was recovered from Mohapatra's vehicle near Hotel Mayfair, Bhubaneswar in the presence of independent witnesses.
 - (iii) The CBI alleges that a call was made from the phone of the accused Mukherjee to Debadutta Mohapatra at around 7:50 PM on the same day, suspected to have been made by Petitioner No. 1 (a senior IAS officer), instructing Mohapatra to receive the money.
 - (iv) Prior to the trap, Petitioner No. 1 had met with Mukherjee regarding a ₹50 crore project under the SC/ST Department. Investigation also revealed that Mahima Sethi (Petitioner No. 3), daughter of Petitioner No. 1, had previously received expensive items (a MacBook and a luxury watch) from Debadutta Mohapatra.
 - (v) On 18.02.2025, CBI officers conducted searches at the official residence of Petitioner No. 1 in Bhubaneswar and at Petitioner No. 3's hostel



room in IIM Lucknow under judicial warrants. Devices such as mobile phones, laptops, and external drives were seized. It is alleged that two lockers, not initially disclosed, were found to have been accessed shortly before CBI could intervene and were discovered empty.

- (vi) CBI claims that Petitioner No. 1 and his spouse were non-cooperative during the search. The agency asserts that passcodes for digital devices were refused, and some devices were submitted in damaged condition. Video/audio recordings were made and submitted under Section 105 of BNSS, 2023.
- (vii) The petitioners allege that they were subjected to harassment, unlawful seizure of personal items, denial of procedural safeguards (like presence of lady officers), and overall conduct violative of their privacy and dignity. They deny any involvement in the alleged crime and assert that the work allocations were done through formal MoUs with the CPSU, not individual discretion.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

- 3. Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions:
 - (i) Petitioners contend that there is no direct or indirect evidence, no call record, voice sample, or witness testimony, linking Petitioner No. 1 to the alleged instruction to collect the bribe.
 - (ii) It is argued that none of the sections of the PC Act apply to Petitioner No. 1, as neither demand nor acceptance of any bribe by him is established.



- (iii) Petitioners claim that their rights under Articles 14, 19, and 21 have been infringed through illegal search, character assassination in the media, and denial of due process and privacy.
- (iv) They allege that the investigation is a fishing expedition, driven by unverified inputs and conducted in a vindictive, disproportionate manner. Petitioner No. 3, a student with mental health issues, was harassed during exams.
- (v) Allegations include illegal seizure without documentation, non-disclosure of materials seized, and fabrication of the gift narrative to link Petitioner No. 3 with the accused.
- (vi) Petitioner No. 1 asserts that allocation of work to the CPSU was done via government policy and not individual decisions, making the alleged motive of bribery baseless.
- (vii) The investigation, despite absence of substantiating material, has caused irreversible harm to Petitioner No. 1's professional reputation and personal dignity.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

- 4. The Learned Counsel for the Opposite Parties earnestly made the following submissions in support of his contentions:
 - (i) The CBI argues that all search and seizure operations were conducted under valid judicial warrants, and procedural mandates under BNSS and PC Act were fully complied with.
 - (ii) The agency claims that Petitioner No. 1's alleged connection to a phone call directing bribe collection, his prior meeting with the accused, and



the gifts received by his daughter constitute sufficient grounds for further investigation.

- (iii) It is contended that petitioners obstructed lawful investigation by refusing passcodes, submitting damaged phones, and misleading investigators about lockers. These acts are treated as attempts to tamper with or destroy evidence.
- (iv) The petitioner first availed appellate remedy, then rushed to High Court prematurely, thereby misusing the extraordinary writ jurisdiction. He obtained an interim order without full disclosure or exhausting remedy.
- (v) The CBI maintains that right to privacy is not absolute and must yield to legitimate criminal investigation. Seizure of digital devices is not testimonial compulsion under Article 20(3).
- (vi) It is argued that the case is at a crucial stage and premature judicial interference, including release of seized items, would compromise the integrity of the probe.
- (vii) Although Petitioner No. 1 was not originally named in the FIR, his involvement came to light during the investigation. The agency defends its position that ongoing inquiry may unearth more linkages requiring scrutiny.
- (viii) The CBI prays that the writ petition be dismissed, terming it a premature attempt to derail a legitimate and sensitive anti-corruption investigation.



IV. COURT'S REASONING AND ANALYSIS:

5. Heard Learned Counsel for parties and perused the documents placed before this Court.
6. The first issue that calls for attention is the extent to which a High Court may intervene in an ongoing criminal investigation, particularly in cases alleging corruption in public office. This is not a question that invites novelty. The law on this point is firmly settled. Yet, in the face of growing attempts to blur institutional boundaries, certain constitutional fundamentals deserve restatement. Investigation is the province of the executive, whether police or CBI. Adjudication belongs to the judiciary. These spheres are not fluid zones of convenience but carefully delineated domains grounded in the constitutional architecture. The Court's role is not to supervise probes in real time. It begins only once the process crystallises into a charge-sheet. Any attempt to judicially intrude into the investigative stage risks not only distorting this balance but also weakening the integrity of the criminal justice system itself.
7. The Supreme Court in the case of *State of West Bengal v. Swapan Kumar Guha*¹ reiterated the abovementioned stance and held that the courts must have substantial grounds before they intervene in investigations by issuing writs like certiorari. The relevant excerpts are produced below:

"In my opinion, the legal position is well-settled. The legal position appears to be that if an offence is disclosed, the Court will not normally interfere with an investigation into

¹ 1982 AIR 949.



the case and will permit investigation into the offence alleged to be completed; if, however, the materials do not disclose an offence, no investigation should normally be permitted. The observations of the Judicial Committee and the observations of this Court in the various decisions which I have earlier quoted, make this position abundantly clear. The propositions enunciated by the Judicial Committee and this Court in the various decisions which I have earlier noted, are based on sound principles of justice. Once an offence is disclosed, an investigation into the offence must necessarily follow in the interests of justice. If, however, no offence is disclosed, an investigation cannot be permitted, as any investigation, in the absence of any offence being disclosed, will result in unnecessary harassment to a party, whose liberty and property may be put to jeopardy for nothing. The liberty and property of any individual are sacred and sacrosanct and the Court zealously guards them and protects them. An investigation is carried on for the purpose of gathering necessary materials for establishing and proving an offence which is disclosed. When an offence is disclosed, a proper investigation in the interest of justice becomes necessary to collect materials for establishing the offence, and for bringing the offender to book. In the absence of a proper investigation in a case where an offence is disclosed, the offender may succeed in escaping from the consequences and the offender may go unpunished to the detriment of the cause of justice and the society at large. Justice requires that a person who commits an offence has to be brought to book and must be punished for the same. If the Court interferes with the proper investigation in a case where an offence has been disclosed, the offence will go unpunished to the serious detriment of the welfare of the society and the cause of the justice suffers. It is on the basis of this principle that the Court normally does not interfere with the investigation of a case where an offence has been disclosed. The decision on which Mr. Chatterjee has relied are based on this sound principle, and in all these cases, an



offence had been disclosed. Relying on the well- settled and sound principle that the Court should not interfere with an investigation into an offence at the stage of investigation and should allow the investigation to be completed, this Court had made the observations in the said decisions which I have earlier quoted reiterating and reaffirming the sound principles of justice."

8. This principle squarely applies here. The present petition, examined in light of the above doctrine, appears to be a textbook case where interference would be premature and inappropriate. The CBI's inquiry is at nascent stage; evidence is still being gathered and assessed. No charge-sheet or final report is before this Court. Interdicting the investigation now would not only impede the fact-finding process but also set a dangerous precedent enabling suspects to stall inquiries against them by rushing to this Court.
9. The Supreme Court in *Dukhishyam Benupani v. Arun Kumar Bajoria*², rebuked a High Court for imposing conditions on an ongoing Economic Offences investigation, observing that such supervision was "*uncalled for*" and would "*impede the even course of inquiry or investigation into serious allegations*", and notably held as follows:

"For what purpose the Division Bench made such interference with the functions of the statutory authorities, which they are bound to exercise under law, is not discernible from the order under challenge. It is not the function of the court to monitor investigation processes so long as such investigation does not transgress any provision of law. It must be left to the investigating agency to decide

² (1998) 1 SCC 52.



*the venue, the timings and the questions and the manner of putting such questions to persons involved in such offences
A blanket order fully insulating a person from arrest would make his interrogation a mere ritual."*

10. These words apply with full force to the case at hand; there is no showing that the CBI's investigation is transgressing any legal provision; hence this Court must not micromanage or prematurely halt it. Investigative agencies must be allowed the operational freedom to pursue leads and uncover facts, especially in matters involving serious economic offences and corruption. Judicial overreach at this stage would undermine institutional accountability and set a regressive precedent that compromises public interest.
11. Another feature that stands out is the petitioners' conscious choice to ignore the remedies already available to them under the criminal law. The criminal procedure is not without answers, it offers clear, time-tested forums for any individual to challenge illegal searches, seek return of property, or apply for anticipatory bail. These are not ornamental safeguards. They exist for everyone, regardless of rank. What is troubling is the unmistakable impression that the petitioner believes his administrative standing entitles him to bypass the ordinary route. Courts do not, and must not, create separate lanes for those in high office who feel inconvenienced by being subject to the same law as everyone else.
12. This selective invocation of constitutional remedies, while disregarding the statutory mechanisms readily available under



criminal law, undermines the discipline and structure of legal process. It suggests not a failure of the system, but reluctance to engage with it on equal terms. However, it is important to clarify that the presence of alternate remedies does not altogether oust the jurisdiction of constitutional courts. The writ jurisdiction under Article 226 remains open, but its invocation must be justified within the narrow framework recognized by law. The Supreme Court in the case of *The Assistant Commissioner of State Tax and Others v. M/s Commercial Steel Limited*³ held as follows:

“The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:

- (i) a breach of fundamental rights;*
- (ii) a violation of the principles of natural justice;*
- (iii) an excess of jurisdiction; or*
- (iv) a challenge to the vires of the statute or delegated legislation.”*

13. In the present case, no exceptional circumstances have been demonstrated to justify this Court’s interference under Article 226. The petition discloses no prima facie breach of fundamental rights, nor any denial of natural justice or jurisdictional excess. The search and seizure operations were conducted under valid judicial warrants, and no procedural illegality under the Bharatiya Nyaya Sanhita or the Prevention of Corruption Act has been substantiated. Mere dissatisfaction with the investigation’s manner or allegations of

³ Civil Appeal No 5121 of 2021.



reputational harm, however strongly felt, cannot override the constitutional boundaries that govern criminal process.

14. Article 226 is not a vehicle for circumventing lawful scrutiny. It is a constitutional remedy of last resort, not a substitute for statutory mechanisms. When individuals occupying high public office invoke it prematurely to stall an ongoing corruption probe, the integrity of legal institutions stands compromised. The petitioners have neither shown that the FIR fails to disclose an offence, nor pointed to any legal infirmity such as absence of sanction or procedural nullity that would render the investigation void ab initio. Their grievances, relating to privacy, dignity, or alleged harassment, are matters that may be examined at the appropriate stage on a developed evidentiary record. At this juncture, entertaining such claims would amount to unwarranted judicial intervention in an active investigation, contrary to both precedent and constitutional design.
15. The Court is also deeply conscious of the nature of allegations here. This is not a run-of-the-mill dispute; it involves allegations of corruption at high levels of governance. Petitioner No.1, as a senior IAS officer, holds a public office of trust. The allegations suggest that he may have leveraged his official position to facilitate a bribe regarding public projects, a charge which, if true, strikes at the heart of institutional integrity. Corruption by public servants is a scourge that undermines the rule of law and public confidence. There is an overwhelming public interest in ensuring that such allegations are thoroughly investigated and, if proven, that guilty are brought to



justice. Petitioner No.1's status as a senior officer does not entitle him to special treatment that places him above the law. On the contrary, higher the office, greater the responsibility to submit to legal scrutiny when credible accusations are made.

16. The petitioners have forcefully argued that their right to privacy has been violated. There is no quarrel with the proposition that privacy is now recognized as part of the fundamental right to life and liberty (Article 21). However, it is equally true that no fundamental right, including privacy, is absolute. The enforcement of criminal law is a quintessential example of a compelling state interest that can justify curbs on individual privacy, provided due process is followed.
17. In the present case, the intrusion into petitioners' privacy, search of premises, seizure of personal digital data, inquiry into personal finances, is grounded in law. Warrants were issued by a judicial officer on the CBI's showing of probable cause, which is a constitutionally sanctioned process. Section 165 Cr.P.C. permits search and seizure upon reasonable suspicion of material evidence. When such procedures are adhered to, the consequent restriction on privacy is deemed a reasonable exercise of state power to investigate crime. Importantly, the petitioners have not demonstrated that the CBI transgressed the scope of the warrants or engaged in any surveillance or data collection beyond what the warrants or law authorize.



18. In this regard, the Supreme Court, in the case of *K.S. Puttaswamy v. Union of India*⁴ the Supreme Court held as follows:

“Apart from national security, the State may have justifiable reasons for the collection and storage of data. In a social welfare State, the Government embarks upon programmes which provide benefits to impoverished and marginalised sections of society. There is a vital State interest in ensuring that scarce public resources are not dissipated by the diversion of resources to persons who do not qualify as recipients. Allocation of resources for human development is coupled with a legitimate concern that the utilisation of resources should not be siphoned away for extraneous purposes. Data mining with the object of ensuring that resources are properly deployed to legitimate beneficiaries is a valid ground for the State to insist on the collection of authentic data. But, the data which the State has collected has to be utilised for legitimate purposes of the State and ought not to be utilised unauthorisedly for extraneous purposes. This will ensure that the legitimate concerns of the State are duly safeguarded while, at the same time, protecting privacy concerns. Prevention and investigation of crime and protection of the revenue are among the legitimate aims of the State. Digital platforms are a vital tool of ensuring good governance in a social welfare State. Information technology—legitimately deployed is a powerful enabler in the spread of innovation and knowledge.”

19. In balancing interests, the scale at this stage tilts in favor of the public interest in an unimpeded corruption investigation, as long as the investigation is under the supervision of law – which it is. The Court

⁴ 2019 (1) SCC 1



also notes that there are in-built safeguards: misuse of any personal information or conducting roving inquiries unrelated to the case can be checked by the trial court; evidence law will ensure only relevant material is produced and considered.

20. It is worthwhile to mention that this Court's refusal to intervene at this stage does not amount to adjudging the petitioners guilty, nor does it foreclose their defense. The petitioners will have full opportunity, if charges are formally brought, to contest the evidence, cross-examine witnesses, and avail due process at trial. Presumption of innocence remains with the petitioners until proven guilty, but presumption of innocence is not a presumption against investigation. Law enforcement is permitted to investigate on reasonable suspicion. Stopping an investigation in its tracks would require a finding that even if the facts alleged are true, no offence is made out, a condition plainly not satisfied in a bribery scenario with documented recovery of money. Thus, the demand to quash the FIR or stop the probe is wholly unjustified.
21. Finally, the Court must speak to the larger truth behind the writ. Corruption at high levels is not a matter of isolated misconduct. It speaks to a breach of the social contract, where those entrusted with public power allegedly turn it into private currency. In such cases, the judiciary's responsibility is not limited to resolving procedural questions. It extends to preserving the legitimacy of the investigative process itself. Petitioner No. 1 is not just any litigant. He is a senior bureaucrat, someone who has operated within the architecture of



power for decades. When such an individual is named in a serious corruption probe, the Court cannot pretend that ordinary safeguards suddenly become excessive or optional. What is sought here is not relief, but insulation, an attempt to short-circuit due process under the pretext of constitutional grievance.

22. To entertain this writ at such a preliminary stage would be to set a dangerous precedent that those with access, stature, or proximity to government can invoke Article 226 as a fire escape from legitimate inquiry. That is not the function of this jurisdiction. It is not the judiciary's role to guard the reputations of the powerful from lawful suspicion. Courts must, of course, remain vigilant against investigative abuse. But vigilance cannot become veto. An investigation, once triggered by credible material, must be allowed to breathe. The rule of law loses its steam when it is invoked selectively; shielding those in office from the very processes they once oversaw. Justice demands neither haste nor hesitation, only that it be allowed to do its work, uninterrupted and unafraid.

V. CONCLUSION:

23. For the reasons aforesaid, this Court finds no merit in the writ petition. The petition is dismissed as premature and not maintainable, the investigation being at an ongoing stage. The CBI is at liberty to continue its investigation in accordance with law, without any interference from this Court. The reliefs sought by the petitioners to interdict or quash the FIR/investigation are refused.



24. Before parting, this Court deems it necessary to address the conduct of Petitioner No.1. As a senior IAS officer, Petitioner No.1 is expected to set a high example in upholding the law. The Court is constrained to note its disapproval of the petitioner's attempt to invoke the extraordinary writ jurisdiction in the midst of an investigation, without exhausting the ordinary processes provided under law. Such attempts smack of forum-shopping and an impatience with the ordinary course of justice.
25. The extraordinary writ power under Article 226 cannot be permitted to be used as a shield by individuals (howsoever high-placed) to fend off legitimate inquiries. The petitioners are reprimanded for this ill-advised litigation. They ought to have first pursued remedies like cooperating with the investigation or approaching the appropriate court if any specific illegality arose, rather than prematurely approaching the High Court. This misuse of writ jurisdiction has resulted in precious judicial time being diverted.
26. Nothing in this judgment shall be construed as an expression on the merits of the allegations against the petitioners. The observations herein are only for the purpose of deciding the maintainability of the writ petition at the present stage. The petitioners' rights, including the right to defend themselves and challenge the evidence if and when the matter proceeds to trial, remain intact. Likewise, the investigation agency is reminded to scrupulously follow the law and afford all due process to the petitioners moving forward. Institutional integrity in anti-corruption efforts must be matched by institutional fairness.



27. The Writ Petition is **dismissed** with the above observations.
28. Interim order, if any, passed earlier stands vacated.

(Dr.S.K. Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 20th June, 2025/*