

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.2242 of 2024**

***Mohammad Amir Khan***

.....

***Petitioner***

Represented By Adv.–  
Mr. V. Subramoniam  
T.R.  
along with  
Dr. Kedar Nath Tripathy

*-versus-*

***State Of Odisha (through  
CBI)***

.....

***Opposite Party***

Represented By Adv. –  
Mr. Sarthak Nayak,  
Advocate for C.B.I.

**BLAPL No.2531 of 2024**

***Arun Kumar Mahanta***

.....

***Petitioner***

Represented By Adv.–  
Mr. Devashis Panda  
along with  
Mr. Sudipto Panda

*-versus-*

***Union of India (CBI)***

.....

***Opposite Party***

Represented By Adv. –  
Mr. Sarthak Nayak,  
Advocate for C.B.I.

**BLAPL No.4280 of 2024**

***Pappu Kumar***

.....

***Petitioner***

Represented By Adv.–  
Mr. Jagannath Patnaik  
along with  
Ms. S. Patnaik

*-versus-*

***Republic of India (CBI)***

.....

***Opposite Party***

Represented By Adv. –  
Mr. Sarthak Nayak,  
Advocate for C.B.I.

**CORAM:**

**THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA**

Date of hearing : 22.08.2024                    ::                    Date of order : 29.10.2024

***A.K. Mohapatra, J.*** The above noted three bail applications have been filed by three different accused persons in respect of self-same occurrence, i.e. one of the most unfortunate human tragedies that took place at Bahanaga Railway Station. The unfortunate incident shall herein be referred to as the “Bahanaga Railway Tragedy”. Initially, the Petitioners moved the learned 2<sup>nd</sup> Additional Sessions Judge, Bhubaneswar for

their release on bail by filing separate bail applications, which arise out of C.B.I. F.I.R. No. RC-08(S)/ 2023/ CBI/ SC-I/ New Delhi dated 06.06.2023, which corresponds to GRPS Case No.64 of 2023 and was eventually renumbered as CTR No.275 of 2023, now pending before the 2<sup>nd</sup> Additional Sessions Judge, Bhubaneswar. The bail application preferred by Mohammad Amir Khan was rejected vide order dated 16.11.2023. Similarly, the other two bail applications preferred by the accused Arun Kumar Mahanta and Pappu Kumar were also rejected by the learned 2<sup>nd</sup> Additional Sessions Judge, Bhubaneswar.

2. Being aggrieved by such order rejecting their bail applications, the Petitioners have approached this Court by filing the above-noted bail applications. Since all the bail applications pertain to the self-same occurrence and such applications involve common questions of facts as well as law, all the bail applications were taken up together for hearing and the same are being disposed of by the following common

order.

3. Before deciding the bail applications on their own merit, this Court would like to clarify that the first bail application in the shape of BLAPL No.2242 of 2024 was heard prior to the Summer Vacation, however, due to non-filing of the note of submissions as well as records, the matter was again listed after Summer Vacation. After Summer Vacation, two other matters were tagged with the BLAPL No.2242 of 2024. All the bail applications were heard together. Moreover, this Court would like to clarify that the delay in delivering the order in all three bail applications is neither deliberate nor intentional and the same is due to the late submission of note of arguments as well as the record by the counsel for the C.B.I.

4. The prosecution story as would be evident from the plain reading of the F.I.R., in a nutshell, is that on 02.06.2023, at about 7.00 P.M., the Informant upon getting the information about the collision between two trains, i.e. Train No.12841 (Howrah-Channei Coromandal Express) and Train No.12864

(Yasantapur-Howrah Express) at Bahanaga Railway Station, rushed to the spot along with the other staff members and found that as a result of such collision between two trains, several compartments of both the trains were capsized. As a result of the aforesaid accident, a total of 296 passengers died and several other passengers sustained either grievous or simple injuries. The prosecution story, as is unfurled from the F.I.R., reveals that the alleged incident took place due to serious negligence in duty and laches on the part of the railway personnel. Initially, on the basis of the F.I.R. allegation, a case was registered for the commission of offences punishable under the Sections 337/338/304-A/34 of the I.P.C. read with Sections 153/154/175 of the Railway Act, 1989. Subsequently, the matter was transferred to C.B.I. and the charge sheet has been filed for commission of offences punishable under Sections 304 Part-II/34/201 of I.P.C. read with Section 153 of Railway Act, 1989.

5. Although initially a G.R. Case was registered, however,

the investigation was subsequently transferred to the Central Bureau of Investigation. Upon conclusion of the investigation, the C.B.I. has filed a charge sheet, albeit keeping the investigation open under Section 173(8) of the Cr.P.C. The charge sheet so filed by the C.B.I. indicates the name of the present Petitioners as accused in respect of the incident which has led to the loss of several human lives. The magnitude of the accident is such that it is being referred to as one of the worst human tragedies to have befallen due to a railway incident, and in this case, due to the unfortunate incident at the Bahanaga Railway Station.

6. Heard Mr. V. Subramoniam T.R. along with Dr. Kedar Nath Tripathy, learned counsels, appearing for the Petitioner in BLAPL No.2242 of 2024; and Mr. Devashis Panda along with Mr. Sudipto Panda, learned counsels, appearing for the Petitioner in BLAPL No.2531 of 2024; Mr. Jagannath Patnaik, learned Senior Counsel along with Ms. Soma Patnaik, learned counsel, appearing for the Petitioner in BLAPL No.4280 of

2024; and Mr. Sarthak Nayak, learned counsel representing the Central Bureau of Investigation. Perused the case diary, statement of the witnesses as well as other materials placed on record for consideration by this Court in the course of hearing.

7. Mr. V. Subramoniam, learned counsel appearing for accused-Petitioner Mohammad Amir Khan, at the outset, submitted that being aggrieved by the order of rejection of his bail dated 16.11.2023, the accused-Petitioner Mohammad Amir Khan has approached this Court by filing the BLAPL No.2242 of 2024. He further contended that the learned 2<sup>nd</sup> Additional Sessions Judge, Bhubaneswar has rejected the application for regular bail filed by the Petitioner Mohammad Amir Khan solely on the ground that the alleged act has caused a devastating train accident which has resulted in the death of many passengers, therefore, the release of the Petitioner may send a wrong message to the society. He further submitted that the rejection order reveals that the learned 2<sup>nd</sup> Additional Sessions Judge has opined that in the event the Petitioner is

released on bail, there is every likelihood that he might abscond from justice or influence the material witnesses. Further, the court in seisin over the matter has also rejected the bail application of the Petitioner keeping in view the seriousness and gravity of the allegation and the maximum punishment that can be imposed in the event the Petitioner is found guilty in the present case.

**8.** While summarizing the genesis of the case, learned counsel appearing for the Petitioner Mohammad Amir Khan would argue that as per the prosecution allegation, on the instruction of Arun Kumar Mahanta (Petitioner in BLAPL No.2531 of 2024), who was the Signal In-Charge, the Petitioner Mohammad Amir Khan had changed the ELB of LC Gate No.94. It is also a matter of record that the circuit diagram and other requirements were provided by accused Arun Kumar Mohanta and that the Petitioner, namely, Mohammad Amir Khan had merely complied with the instructions of his superior officer. He further contended that





the charge sheet reveals that the Signal In-charge has miserably failed his responsibility to follow the conditions stipulated under the Railway Signal and Engineer Manual, 2021. He would further argue that the aforementioned manual specifically provides that the Signal In-charge is required to test the correctness of the system before requesting the Engineer-in-Chief to test and commission the work. Further, the instruction for mechanical and electrical lifting of barriers also categorically provides that the typical drawings shall not be issued without the specific approval of the Principal Chief Signal and Telecommunication Engineer. Thus, the learned counsel for the Petitioner Mohammad Amir Khan, in the course of his argument, tried to shift the burden on the accused-Petitioner Arun Kumar Mahanta. Moreover, he also tried to justify the fact that the Petitioner Mohammad Amir Khan, being a sub-ordinate officer, is in no way responsible for the unfortunate incident.

9. Learned counsel appearing for the accused-Petitioner

Mohammad Amir Khan further argued that the charge sheet reveals that there was an anomaly in Entry No.13 & 14 as well as Entry No.23 and 24 in the signalling system in the year 2018 at the time when one Mr. Sourav Haldar was the Signal In-Charge. He further argued that the above named Mr. Sourav Haldar had not recorded the changes as per the manual in the North Goomty of the BNBR station. Since the changes made under the instruction of Mr. Sourav Haldar were not recorded properly, the connections given by the accused-Petitioner on the basis of an erroneous diagram might have caused the accident. Mr. Subramoniam further placed emphasis on the fact that the Petitioner Mohammad Amir Kann, who happens to be a subordinate officer, has complied with the direction given to him by his superior officer while commissioning the ELB of LC Gate No.94. It was strenuously argued that before commissioning the ELB and permitting the trains to pass through the said check gate, the Signal In-charge should have tested and verified the signal system.

10. Mr. Subramoniam, learned counsel appearing for the Petitioner Mohammad Amir Khan also argued that Section 304 Part-II of the I.P.C. is not made out against the Petitioner-Mohammad Amir Khan, as the ingredients of such offence, which have been clearly led out in Sections 299 and 300 of I.P.C. are absent, so far the allegations made against the Petitioner Mohammad Amir Khan is concerned. He further contended that to frame a charge under Section 304 Part-II of the I.P.C., i.e. culpable homicide not amounting to murder, the basic ingredients of homicide are required to be examined and established against the Petitioner. So far as the present case is concerned, learned counsel appearing for the Petitioner Mohammad Amir Khan has put the entire blame on the Station Master, namely, Mr. Avinash Mohanty. In the aforesaid context, it was argued that the above-named Avinash Mohanty had at no point in time intimated to the Petitioner Mohammad Amir Khan that the signalling system was not working properly. He further contended that although the system was



installed at 16:50 hrs. and four trains had already travelled through the main line, there was no error in the signalling system. Moreover, the entire responsibility of testing and verifying the signalling system is on the Station Master.

**11.** In the course of his argument, learned counsel appearing for the Petitioner Mohammad Amir Khan further argued that to keep an eye on the proper functioning of the signalling system, a display board is provided in the office of the Station Master. Such a display board indicates the functioning/malfunctioning of the signalling system. He further argued that in the event the signalling system is malfunctioning or the same is not functioning in the desired manner, then it is open to the Station Master to change the railway track manually by pulling the levers provided in his office. More surprisingly, the Station Master, who has not been added as an accused in the present case, had not informed regarding any abnormality in the signal system to any of the above Petitioners. Learned counsel for the Petitioner



Mohammad Amir Khan seriously disputed the role of the Station Master in the entire incident and he further submitted that it is shocking to learn that the Station Master, who is in charge of the entire signalling system, has not been added as an accused in the present case.

12. In course of his argument, learned counsel for the Petitioner Mohammad Amir Khan also referred to the report submitted by the Commissioner of Railway Safety. By referring to the said report, it was argued that the cause of the accident was that the 17 NWKR circuit at North Goomty was shifted from Terminal F13 & F14 to Terminals F23 & F24 on the CTR rack in the year 2018 on account of cable fault, without any specific endorsement to that effect in the completion drawing, and that the shifting of the circuit was carried out without following the standard practice. In the aforesaid factual backdrop, learned counsel for the Petitioner-Mohammad Amir Khan submitted that no fault can be found with the conduct of the Petitioner, who was merely carrying



out the orders of his superior.

**13.** Learned counsel for the Petitioner Mohammad Amir Khan further referred to the report of the Commissioner of Railway Safety, specifically to Page No.32 [Para No.8.1.4 (i)] and submitted that the said portion clearly indicates that the Station Master, BNBR should have brought to the notice of the signal and telecommunication staff working at BNBR with regard to the abnormality about the indication on the point at the same time when such abnormality appeared on the panel and that he should not have taken of uphome signal for the train No.12841, i.e. Coromondal Express. He further contended that the Petitioner-Mohammad Amir Khan was transferred from the BNBR Station in April, 2023. It is only on the date of the accident, that the Petitioner was summoned to BNBR Station and was assigned with the duty of checking the signal system along with other Petitioners and commissioning of ELB No.94. In the aforesaid background, learned counsel for the Petitioner submitted that the Petitioner-Mohammad

Amir Khan, who happens to be a Railway Engineer, at the moment posted in West Bengal, be released on bail on any stringent terms and conditions.

14. Mr. Devashis Panda, learned counsel for the Petitioner in BLAPL No.2531 of 2024, submitted that at the relevant point of time the Petitioner-Arun Kumar Mahanta was posted as Senior Section Engineer In-charge, Balasore and that the Bahanaga Bazar Station was under his jurisdiction. He further contended that the allegations made against the Petitioner-Arun Kumar Mahanta are without any substance and that the electrical lifting barrier installed at level crossing No.94 was prone to failing and, as such, he had directed its replacement by another one. Moreover, Mr. Panda, learned counsel for the Petitioner-Arun Kumar Mahanta supported the argument of Mr. Subramoniam, learned counsel appearing for the Petitioner-Mohammad Amir Khan to the extent that in the year 2018, the Railway Signal System at BNBR was altered at the instance of one Sourav Halidar, the then Junior Engineer,

Signal without reporting the same or recording such alteration in the manual. He further contended that electronic interlocking system had been installed at Bahanaga Bazar Railway Station initially in the year 2003. Thereafter, the same was altered in the year 2014 and on 08.08.2018 as alleged hereinabove. In the course of his argument, Mr. Panda specifically pointed out that changes were made in the North Goomty room of Bahanaga Bazar Railway Station in the year 2018 which remained unreported and unrecorded. He further alleged that the above-noted alterations made by the then Junior Engineer, Signal had not been approved by the competent authority nor does the same find place in the cable insulation register. Moreover, it has also not been indicated in the Cable Termination Rank of the Replay Room and the North Goomty. Such alteration was not known to the accused-Petitioner. As such, it was argued that the Petitioner-Arun Kumar Mahanta was discharging his duties properly and that the fatal accident that has unfortunately taken place, was a



result of malfunctioning of the signal system due to the altercation carried out in the year 2018.

**15.** Further, referring to the offences alleged against the Petitioner-Arun Kumar Mahanta, Mr. Panda submitted that no offence under Section 304 Part-II of I.P.C., as alleged in the charge sheet, is made out against the present Petitioner. He further contended that the offences alleged under Section 201 of I.P.C. as well as Section 153 of Railways Act, 1999 are bailable in nature. He further contended that since the investigation is over and the final charge sheet has been filed in the meantime, any further custodial detention of the Petitioner is no more required.

**16.** In course of his argument, Mr. Panda, learned counsel for the Petitioner-Arun Kumar Mahanta made an attempt to demonstrate the signalling arrangement at Bahanaga Bazar Railway Station. There are four electrified running lines i.e. Up Loop Line, Up Main Line, Down Loop Line and Down Main Line with the Up & Down Loop Lines provided with



over-run lines. A fifth non-running line, i.e. Goods Shed Siding Line takes off from Up Loop Line and the Main & Loop Lines are connected through a Crossover where points are operated by machines that draw power from the Integrated Power Supply System kept in the North Goomty. He further contended that Crossover No.17 comprises of two Points i.e. 17A & 17B which control the movement of trains from the Howrah side and in the Station Master's room there is a control panel which clearly indicates the position of crossover points. He further argued that the Station Master of Bahanaga Bazar Railway Station is responsible for setting the route that a train will take while crossing the station either through the Main Line or through the Loop Line by pressing both the 'route' and 'signal' buttons on the control-cum-indication panel in his room. He further submitted that from the aforesaid control panels, commands are given to the Electronic Interlocking System through signals. Mr. Panda, learned counsel for the Petitioner-Arun Kumar Mahanta, in the course

of his argument, also raised the contention that the altercation made in the North Goomty in the year 2018, was neither approved by the competent authority nor the same has been properly recorded.

17. Learned counsel for the Petitioner-Arun Kumar Mahanta further argued that on 09.01.2023 the Petitioner-Arun Kumar Mahanta proposed the replacement of LC Gate No.94. Such proposal was forwarded to the Railway Headquarters at Kharagpur. Thereafter, allegedly the Petitioner asked one Ganesh Sengupta, Contractor, to execute the work at Bahanaga and to replace LC Gate No.94. The said contractor deputed one Rabindra Sasmal @ Rabi to do the work and such work commenced on 01.05.2023. The above-named Rabindra Sasmal started the work on 02.06.2023 with the help of one Ashok at 10:00 hrs. Thereafter, the accused Mohammad Amir Khan joined them around 14:30 hrs. On the very same day, the disconnection of the railway line was sought around 15:45 hrs. from the Station Master for 30 minutes. The Station Master



permitted disconnection from 16:20 hrs. to 16:50 hrs. During the aforesaid disconnection period, a train passed through the line at 16:30 hrs. At 16:50 hrs. on the instruction of Mohammad Amir Khan, Technician Abinash Mohanty applied to the Station Master for reconnection, which was allowed. He further categorically submitted that between 16:00 hrs to 18:55 hrs, six trains had passed through the Up Main Line and on instruction of the Section Controller, at 18:18 hrs., the Station Master allowed a Goods Train to pass through Up Loop line. He further submitted that so far the Petitioner-Arun Kumar Mahanta is concerned, it is alleged that after the incident he had asked the technician to open the North Goomty and after checking the wires and circuits he asked the technician to close the same and not to disclose the aforesaid fact to anybody.

**18.** In the course of his argument, Mr. Panda also referred to the railways fact-finding inquiry with regard to the cause of the accident. Referring to the report, he further contended that such inquiry was concluded with the finding that though the



signal was given and taken off for 12841 Coromondel Express to enter the Up Main Line, it entered into Up Loop Line and collided with the Goods Train and, similarly, two coaches of Yashvantpur-Howrah Express, which was passing through the Down Main Line, also got derailed. The report further reveals that Point No.17-A was set for Up Loop Line (in 'Reverse' condition) and changes were made in the wiring in the year 2018 by the then J.E. Signals which had not been reported to the authorities. In the course of his argument, an attempt was also made to shift the responsibility on Mohammad Amir Khan and Pappu Kumar, who were engaged in the work of replacement of ELB. He also made an attempt to dispel the allegation with regard to the unauthorised engagement of the contractor. In the aforesaid context, learned counsel for the Petitioner submitted that the contractor was engaged with due approval of the higher authorities. He further contended that since no fault can be found with the Petitioner-Arun Kumar Mahanta, he cannot be held guilty for the unfortunate accident.

As such, the Petitioner- Arun Kumar Mahanta, who is languishing in custody, be enlarged on bail on any stringent terms and conditions, as there is no chance of absconding from justice.

19. Mr. Jagannath Patnaik, learned Senior Counsel appearing on behalf of the Petitioner-Pappu Kumar in BLAPL No.4280 of 2024, while reiterating the grounds taken by the other two accused-Petitioners, specifically put forth the argument that the Petitioner-Pappu Kumar had no knowledge of the changes that were made in the year 2018 in the circuits of 17NWKR and LC Gate No.94 by the then J.E., Signal. He further contended that on the date of the incident, i.e. 02.06.2023, a major maintenance work was going on at BNBR Railway Station to replace 110 AC Volt Operated Electric Lifting Barrier to a 24V DC Electric Lifting Barrier operated by S&T officials. Mr. Patnaik further emphatically put forth his argument concerning the very same point which has been argued by the other two counsels appearing for the two other accused-



Petitioners, i.e. with regard to the role of one Sourav Halidar, who was the J.E., Signals, Soro in the year 2018. He argued that the above-named J.E., Signals altered the wires without the prior approval of the competent authority and such changes were not recorded. As a result of the aforesaid alternation, the wires related to the normal position (17 NWK1R) coming from Point No.17 to North Goomty were connected/looped to terminal No.23-24 instead of terminal No.13-14 in the Cable Termination Rack (CTR) of North Goomty and similar looping was also done in the Relay Room. As a result of this looping, errors occurred in the signalling system. The entire incident was summerized by the learned Senior Counsel by submitting that, pursuant to the maintenance work carried out in the year 2018, the circuit of the Crossover Point No.17A and B located on the tracks was running in the circuit of LC Gate No.94 and that such instance was not recorded in the manner as is required to be recorded as per the manual. Due to the non-recording of the alterations, it is alleged that probably the



Petitioner and other co-accused persons, who are working on the maintenance of LC Gate No.94, erroneously sent the voltage which went through the crossover point of 17A and B causing indication of wrong signal and eventually the same led to the railway accident that had occurred on 02.06.2023. He further argued that the Petitioner is innocent and that the petitioner, in his wildest imagination, could not have foreseen the tragic consequences. Further, it was argued that the error in the signalling system was due to the alteration that was made in the year 2018.

**20.** Learned Senior Counsel appearing for the Petitioner-Pappu Kumar also referred to the report of the Commissioner of Railway Safety. By referring to the aforesaid report, it was contended that such report corroborates the assertion of the Petitioner-Pappu Kumar that the changes made in the year 2018 were not within the knowledge of the railway technicians who were engaged in the maintenance work on the fateful day. Further, referring to Page No.158 of CRS Report, learned





Senior Counsel submitted that the findings recorded therein would go on to show that the S&T Staff (accused persons) were misled by the non-endorsement/wrong lettering and that they had no knowledge that the circuits were changed. He would also refer to pages 64 and 65 of the report, specifically Paragraphs 25 and 26, to impress upon this Court that the report of the Commissioner of Railway Safety categorically reveals that there was no endorsement whatsoever with regard to the alterations made in the year 2018.

**21.** Learned Senior Counsel for the Petitioner next argued that various abnormalities were detected on the Control Panel of the Station Master which went unnoticed and unreported. He further submitted that had such abnormalities been detected without delay, then the unfortunate accident that had taken place at Bahanaga could have been averted, thereby saving the lives of the poor passengers from demise. In the aforesaid context, he further submitted that the accused persons were present in the North Goomty, which is situated at the end of



the railway station and contains the complete electrical circuit of the railway station. Moreover, a control panel is provided in the room of the Station Master wherein any abnormality in the signal system could be easily detected and such errors can only be manually overridden. However, the same was not resorted to, and eventually, such negligence has led to the unfortunate accident. In the course of his argument, he also specifically pointed out the abnormalities that were detected at the control panel of the Station Master before the accident took place. However, before the same could be rectified, the trains were allowed to pass through the line thereby causing the collision that has resulted in the loss of lives of several human beings. After pointing out four major abnormalities which could not be detected by the Station Master and be acted upon in a timely manner, the learned Senior Counsel appearing for the Petitioner-Pappu Kumar submitted that had those abnormalities been noticed by the Station Master and informed the Petitioner and co-accused, who were working inside the

North Goomty, the signal failure could have been rectified, and as a result the unfortunate accident could have been averted. He further contended that since the Petitioner and co-accused were working inside the North Goomty, they had no scope to know that the signal system was not operating correctly. He further argued that the accused-Petitioner Pappu Kumar is a grassroots employee of the railways and that his principal responsibility, as per the Signal Engineering Manual, is that his scope of work was limited to working under the supervision of his seniors and carrying out their command. In the aforesaid context, he further submitted that the Petitioner-Pappu Kumar had no authority to issue any command or to take any independent decision in the matter. Therefore, whatever work was performed by the Petitioner was under the instruction of his superiors only. Moreover, the alteration work in the signal system is to be carried out on the strict instruction of the SSC and J.E. Officers of the railways.

**22.** Furthermore, it was submitted that the presence of the

Petitioner-Pappu Kumar in the North Goomty or their overstaying in North Goomty beyond the disconnection hours would itself not bring them under any kind of suspicion. To justify his stand, learned Senior Counsel appearing for the Petitioner-Pappu Kumar submitted that even after the issuance of reconnection memo by the Station Master after due verification, the technical personnel, who are working in the field, are required to perform the follow-up dressing work and other ancillary works without any major alteration. Moreover, in the absence of any specific evidence to the effect that they were in the process of altering any work that had been performed earlier, it cannot be presumed that an attempt was made by the Petitioner-Pappu Kumar to tamper with the evidence. As such, he is not liable to be prosecuted under Section 201 of the I.P.C. He further contended that since the Petitioner-Pappu Kumar is a railway employee, there is no chance of absconding and that since the charge sheet has been filed, there is no requirement for any further custodial

interrogation of the petitioner. As such, it was prayed that the Petitioner-Pappu Kumar be released on bail on any stringent terms and conditions deemed proper by the Court.

**23.** Mr. Sarthak Nayak, learned counsel for the C.B.I., on the other hand, vehemently opposed the release of the Petitioners on regular bail. At the outset, Mr. Nayak contended that in case of a human tragedy of this nature, responsibility is required to be fixed on the persons who are squarely responsible for such negligence and laches. He further contended that as a result of the aforesaid railway tragedy, close to 300 persons lost their lives and many persons have sustained either grievous or simple injuries. In the course of his argument, Mr. Nayak submitted that the Bahanaga Railway tragedy is one of the worst railway tragedies this country has ever seen. He further emphatically argued that the actions of the accused-Petitioners appear to be dubious and that the same is not in consonance with the respective manuals and guidelines issued by the railways. He further raised questions



with regard to the presence of the Petitioners in North Goomty after the accident took place and contended that the accused persons rushed to the North Goomty to destroy evidence with regard to the fault in the signalling system.

24. In the course of his argument, learned counsel for the C.B.I. referred to the Section 161 statement of several witnesses, who have been examined by the C.B.I. during investigation. By referring to the statement of such witnesses, learned counsel for the C.B.I. submitted that admittedly the present Petitioners were involved in the maintenance work, particularly the change of ELB at LC Gate No.94. Moreover, such witnesses have categorically stated with regard to the malfunctioning of the signal system. Thus, it was contended that the accused-Petitioners, who are in charge of the maintenance work and were engaged in the maintenance of the signal system are squarely responsible for the railway accident that had occurred on 02.06.2023. Therefore, learned counsel for the C.B.I. justified the filing of the charge sheet alleging

the commission of offence under Section 304 Part-II of the I.P.C.

25. Further, referring to the counter affidavit filed by the Additional Superintendent of Police, C.B.I., Mr. Nayak, learned counsel for the C.B.I. submitted that the present case was registered and taken up by the C.B.I. for investigation on the basis of the notification issued by the Department of Personnel and Training, Government of India vide ID No.228/34/2023-AVD-II dated 06.06.2023 under Section 5 of the DSPE Act and the Notification No. 23595/HOME-CHR-MIS0612-2023 dated 05.06.2023 issued by the Government of Odisha under Section 6 of the DSPE Act. He further contended that on such notification, the investigation of GRPS Case No.64 of 2023 was taken over by the C.B.I. from GRPS, Balasore by re-registering the same as RC-08(S)/2023/CBI/SC.I/New Delhi. In the course of the investigation, the C.B.I. found that there are four lines at Bahanaga Bazar Railway Station. Out of which, two are main



lines and two are loop lines used for parking of the trains. The main line and the loop line are connected through a Crossover wire point and the same is being used to take a train out of the Main Line to the Loop Line and vice versa. Such movement from the Crossover points is controlled by Points No.17A and 17B. The aforesaid operation is controlled through a point machine. The power supply to the point machine is provided through an integrated power supply system kept in North Goomty. Further, the power supply is used for driving the motor in 'Reverse' or 'Normal' direction to set the point in the corresponding position. Moreover, the command for such an operation is given on the basis of the E.I. system. Learned counsel for the C.B.I. further emphatically argued that the entire system is connected to the North Goomty and from North Goomty the signal goes to the E.I. System (kept in the relay Room).

**26.** Learned counsel for the C.B.I. further argued that the route setting for a train is usually done by the Station Master



by pressing the Route button along with the Signal button in the Control Panel kept in the Station Master's Room at the Station. The Bahanaga Bazar Railway Station signalling system is operated through E.I. system. The E.I. system, after receiving commands/input from the Station Master's Control Panel for setting up of route/signals, gives commands for setting up of routes, points and signals, using the Relays/circuits kept at the Goomty. The E.I. System was installed at Bahanaga Bazar Railway Station by M/s. Hitachi Rail STS Pvt. Ltd. in the year 2003. Initially, the command given by the Station Maser goes to the Logic processor kept in the railway room, thereafter the same is transmitted from the Logic processor to the North Goomty (where Relays/circuits are kept), and from there, the command is transmitted to the Point Machine for setting up of the route for the Up Loop lines as well as Main Line. Further, the Data Logger was installed at the railway station for keeping the data of the entire signal command.



27. On 02.06.2023 at about 18:34 hours, a Goods Train carrying iron ore was parked in the Up Loop Line coming from the Howrah side of Bahanaga Bazar Railway Station. At that time, the Coromandal Express, coming from Howrah side, on the Up Main Line through crossover (Point No.17 – Point No.17A on the Up Main Line; Point No.17B on the Up Loop Line) entered into the Up Loop Line of Bahanaga Bazar Railway Station, as a result of which, Coromandal Express collided with the Goods Train that was parked in the Up Loop Line causing the accident. At the very same time, Yaswantpur-Howrah Express which was passing through the Down Main Line of BNBR Station coming from the Chennai side was also affected by the first collision as some of the coaches of the Coromandal Express fell on the Down Main Line thereby hitting the last part of the train Yeswantpur-Howrah Express. Learned counsel appearing for the C.B.I. further contended that the inspection that had taken place on 03.06.2023 reveals that Point No.17A set for Up Loop Line was in a reverse

condition at BNBR Station.

**28.** Mr. Nayak, learned counsel for the C.B.I. further submitted that the Track Simulation Video maintained at the Divisional Control Room at Kharagpur connected with the E.I. System installed at Bahanaga Bazar Railway System indicates that on 02.06.2023 at 18:34 hrs. for the Goods Train approaching the station from Howrah side on the Up Main Line, the Station Master at the Bahanaga Bazar Railway Station got directions from the Divisional Control at Kharagpur to take the Goods Train on the Up Loop Line so as to give thorough passage to the passenger train Coromondal Express. Therefore, the Station Master signalled the Goods Train to enter into the Up Loop Line from the Up Main Line and the Points No.17A & 17B were kept in 'Reverse'.

**29.** Similarly, at about 18:50 hrs., the signal for Coromandal Express coming on the Up Main Line was set by the Station Master for the Up Main Line. Learned counsel appearing for the C.B.I. further contended that on getting such command



from the Control Panel, Points No.17A and 17B, which were earlier set in reverse position, should have come to normal position. He further contended that during investigation, it transpired that Point No.17A and 17B were set in reverse position for taking the Goods Train in Up Loop Line, even after giving command by the Station Master for setting the route for allowing the Coromandal Express on Up Main Line, the signal at Point No.17A and 17B did not change to normal position and remained in reverse position, as a result of which, the Coromondal Express entered into the Up Loop Line and collided with the stationed Goods Train. He further contended that in the course of the investigation, it also detected that LC Gate No.94 was often giving failure results, as a result of which, the same was required to be replaced. However, the work of replacement of L.C. Gate was handed over to Zonal Contractor Ganesh Sengupta who had engaged one Ravindra Sasmal at LC Gate No.94. The said Ravindra Sasmal along with accused-Petitioner-Papu Kumar and his Helper were



working at LC Gate No.94. On 02.06.2023, accused Arun Kumar Mahanta, the SSE, told accused Papu Kumar, Technician, Balasore to visit Bahanaga Bazar Railway Station. Further, the investigation reveals that the electric connection at LC Gate No.94 was to be disconnected in the North Goomty after obtaining disconnection permission from the Station Master. On the very same day, at 15:45 hrs., disconnection was sought for from the Station Master as directed by SSE and other co-accused persons. The Station Master granted permission for disconnection from 16:20 hrs. to 16:50 hrs. During such disconnection hours, the accused persons were working inside the North Goomty. At 16:50 hrs. reconnection was applied for by the Technician on the instruction of the SSE over the phone as the work inside of the North Goomty was over. Accordingly, reconnection was granted by the Station Master. He further alleged that despite such reconnection permission, the above-named accused persons continued to work inside the North Goomty which raises grave

doubts about their conduct in the present case.

**30.** Learned counsel for the C.B.I. further submitted that the investigation further reveals that at around 20:10 hrs., the accused-Petitioner Arun Kumar Mahanta reached the accident site where one N.K. Ajad, Sr. DSTE was already present. They found that the Point No.17 was in reverse position and that the motor of Point No.17 was broken and not available. On the inquiry, the accused persons could not give any satisfactory reply. It has also been alleged that at about 11.00 P.M., the present Petitioners entered into the North Goomty of Bahanaga Bazar Railway Station and removed the wrong wiring done by them which resulted in the tragic train accident. The wrongly connected wires were thereafter destroyed by them. He further submitted that upon conclusion of the investigation final charge sheet was filed although the investigation has been kept open and that the case is under trial before the learned 2<sup>nd</sup> A.D.J., Bhubaneswar. On the aforesaid submission, learned counsel appearing for the C.B.I. submitted that on the basis of

the various materials collected during the investigation, a case is well made out against the present Petitioners. He further submitted that taking into consideration the seriousness and gravity of the allegation, the Petitioners are not entitled to be released on bail. Accordingly, their bail application be rejected at this juncture.

**31.** Having heard the learned counsels appearing for the respective parties, on a careful analysis of the submissions made by the learned counsel appearing for the respective parties and on perusal of the materials on record, this Court observes that the magnitude of the crime, if at all the same has taken place, is huge, especially considering the impact of the accident. It is not unknown that close to 300 people perished in one of the worst railway tragedies in the country and many have sustained grievous injuries. Therefore, the question that arises at this juncture is, whether the accident is a result of any crime committed by the accused persons, i.e. whether the accused persons were harbouring any mens rea to give effect



to their criminal design, or is the accident, which caused loss of valuable human life and property, a result of composite negligence on the part of the railway authorities in maintaining the railway tracks and signal system. Therefore, the larger issue that is required to be adjudicated in the course of the trial is not only the criminality attached to the incident but also whether the railway authorities have discharged their responsibility as per the railway manuals/guidelines/circulars. There is no doubt that had the authorities been more careful and sincere in discharging their duties, the accident could have been averted, thereby saving the human lives lost.

**32.** It is a well-known fact that in India lakhs of trains ply every day carrying goods and innumerable passengers. The railways statistics show that several crores of passengers travel every day by trains plying on the railway tracks spanning across the length and breadth of the country. Therefore, the investigation in the present case assumes more significance. Be it a criminal act causing death of hundreds or a negligence





on the part of the Indian Railways and its officials and employees, one thing is for certain; the magnitude of the damage in the present case is huge. Therefore, the investigation is required to be broad-based and comprehensive, taking within its sweep the conduct of every officer involved in the signalling system. In the recent past, it has been observed that such types of railway tragedies are happening frequently due to defective signal system or failure to maintain the signal systems properly. Therefore, it becomes incumbent upon both the railway authorities as well as the investigating agency, i.e. Central Bureau of Investigation, to go deep into the matter and to find out not only the criminal angle involved in the alleged occurrence but also the negligence (if any) on the part of the railway technicians, engineers and executives who are involved in the process of maintenance of railway tracks and signal system. These types of incidents, occurring so often, cannot be taken lightly.

**33.** Coming back to the facts of the present case, on a careful



analysis of the materials on record, this Court observes that there exist several laches on the part of the concerned authorities. The alteration of the signal system in the year 2018 by one Sourav Halder, the then J.E., Signal, Soro without reporting the same to the authorities and having not kept any record of such alteration, is a serious negligence on the part of the above-named officer. However, the investigating agency has not enquired into such allegation satisfactorily. Moreover, the manner in which persons were drawn from other divisions to work on the signal system of BNBR Station, without even providing them with the diagrams/maps etc., creates anxiety in the mind of the Court with regard to the manner in which these serious issues are being handled by the railway authorities. Consequently, on a wholesome consideration of the entire incident, this Court is of the view that the entire tragedy is a result of a composite negligence on the part of the railway personnel/officials/executives, who were responsible for the upkeep, maintenance and proper functioning of the signal

system at BNBR Station. Having said, it is without doubt, that the role of the present Petitioners in the present incident is shrouded in the clouds of doubt and no satisfactory answer is coming forth from them. However, at this stage, it cannot be presumed that these Petitioners are solely responsible for the alleged tragedy.

**34.** Additionally, in the course of the hearing, learned counsel appearing for the Petitioners have also referred to the Indian Railways General (Amendment) Rules, 2022. On perusal of the said Amendment Rules, 2022, this Court observes that in SR. 3.68.04(d)(e) of Chapter-III (Signals), it has been prescribed as follows:-

*“(d) When the defect has been rectified, the official of the signal department shall issue a reconnection memo on the relevant portion of the form S & T /DN (T-351) to the Station Master as a certificate for rectification of the defect and obtain his signature. The Station Master before acknowledging such memo shall test the signal and satisfy himself that the signal is in proper*



*working order.*

*(e) Thereafter the Station Master shall make necessary entries in the Failure register, Train Signalling register, Diary and Caution Order Register.”*

Similarly, in SR. 3.68.05(b)(i) of Chapter-III (Signals) of the Indian Railways General (Amendment) Rules, 2022, it has been prescribed as follows:-

*“The Station Master on duty shall personally supervise the correct setting of all points, clamping and padlocking of the facing points and clearance of the nominated route for admission of a Passenger train or a goods train when Passenger train is standing on the adjacent line.”*

Therefore, on a careful analysis of the aforesaid provisions, it appears that the role of the Station Master of Bahanaga Bazar Railway Station has not been inquired into properly by the Investigating Agency.

**35.** On a careful analysis of the statement of the witnesses, as well as other materials on record and taking into consideration



the factual foundation of the allegations made against the present Petitioners, this Court is of the view that it is not the case of the prosecution that the Petitioners entered into the Relay Room or the North Goomty by replacing LC Gate No.94 absolutely without any authority. In other words, the petitioners' entry into the North Goomty and the tampering with the circuit in North Goomty, which is the bone of contention of the prosecution, does not conclusively indicate that the Petitioners are solely responsible for the tragedy. However, it is without doubt that the same does point a finger of accusation at the Petitioners. Furthermore, considering the fact that the evidence which is required to be adduced and then to be examined by the trial court is highly technical in nature, this Court, at this stage, refrains itself from making any further observation in the matter which would eventually cause prejudice in the mind of the trial court while conducting the trial.

**36.** Keeping in view the aforesaid analysis, further taking

into consideration the fact that the investigation has been concluded and the final charge sheet has been filed, although with permission under Section 173(8) of Cr.P.C. to conduct further investigation, and further taking note of the fact that the Petitioners are all regular railway employees who have been languishing in jail custody since 07.07.2023, and the fact that further custodial interrogation of the Petitioners are not required in connection with the present case, as the trial has already commenced, this Court is inclined to release the Petitioners on bail subject to stringent conditions.

**37.** Hence, it is directed that the Petitioners be released on bail in the aforesaid case on furnishing a bail bond of Rs.50,000/- (Rupees fifty thousand) each with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter. Further, the release of the Petitioners shall also be subject to the following conditions:-

- I) They shall appear before the trial court on each and every date of posting of the case, if

not prevented by sufficient cause;

II) They shall appear before the I.O. for further investigation on being informed by the I.O. within seven days from the date of such intimation by the I.O. and shall cooperate with further investigation;

III) They shall not tamper with the prosecution evidence in any manner whatsoever while on bail;

IV) They shall not threaten/influence or gain over any of the prosecution witnesses while on bail;

V) They shall not leave the country under any circumstances and shall deposit their travel documents including the Passport, if any, before the trial court at the time of their release on bail; and

VI) They shall keep the I.O. informed regarding their whereabouts fortnightly and shall provide their updated contact numbers from time to time to the I.O.

Violation of any of the above-noted

conditions shall entail cancellation of bail.

38. It is further directed that the release of the Petitioners shall also be subject to the condition that the Railway Authorities shall not post/fix the headquarters of the Petitioners in the very same division where the accident had taken place.

39. With the aforesaid observation and direction, all the above-noted three bail applications are allowed.

*( Aditya Kumar Mohapatra )*  
*Judge*

Orissa High Court, Cuttack.  
The 29<sup>th</sup> October, 2024/Debasis Aech, Secretary