

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.01 of 2022

Ashok Kumar Mishra

Petitioner

....
Mr.D.P.Dhal, Sr. Advocate

-versus-

State of Odisha

.... ***Opposite Party***

Mr. P.C.Das, A.S.C.
Mr.Sidhartha Mishra, Advocate
for informant

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
29.09.2022**

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner, learned Addl. Standing Counsel for the State. Perused the records.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 417, 418, 420, 406, 409, 120(B)/34 of the Indian Penal Code.
4. It is submitted by Mr.Dhal, learned senior counsel that certain contractual works were carried out while he was Executive Officer, Sundargarh Municipality without following proper procedure i.e., proper tender procedure has not been followed. Further, it is submitted that such irregularities were found while a committee was verifying the affairs of the Municipality.

5. Learned Additional Standing Counsel on the other hand submits that on the basis of the report of that committee, the present F.I.R has been lodged against the Petitioner. He further submits that tender has been awarded without following proper procedure and without taking approval from the competent authority. However, he does not dispute the fact that work has not been done by the successful tenderer. He further submits that the Petitioner has a criminal antecedents i.e., he was involved in a vigilance case where it is stated that the trial is going on.

6. Considering the seriousness of the allegation, gravity of the offence and the facts of the case, although I am not inclined to grant anticipatory bail to the Petitioner, however it is observed that, in the event the Petitioner surrenders and moves for bail before the learned S.D.J.M, Sundargarh in G.R.Case No.1978 of 2021 arising out of Sundargarh Town P.S. Case No.333 of 2021 within a period of three weeks from today, he shall be released on bail on such terms and conditions as the learned Magistrate may deem just and proper in the facts and circumstances of the case, but subject to verification of criminal antecedents of similar nature. In the event it is found that the Petitioner is having more than one criminal antecedents of similar nature, then this order shall not be given effect to.

While imposing conditions for bail, learned Magistrate shall also impose the following additional conditions –

- (i) The Petitioner shall appear before the I.O. and shall cooperate with the investigation as and when required by the I.O.;
- (ii) He shall not tamper with the prosecution evidence while on bail

- (iii) He shall not threaten, influence or terrorise the prosecution witnesses in any manner whatsoever, while of bail;
- (iv) He shall appear before the trial court on each and every date fixed.

Violation of any of the conditions shall entail cancellation of bail of the Petitioner.

- 7. The ABLAPL is disposed of accordingly.
- 8. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge



RKS