

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 3995 of 2022

***Lelin Choudhury@ Lelin
Chudhury***

....

Petitioner

Mr. S.R. Mohanty, Advocate

-Versus -

State of Odisha

....

Opposite Party

Mr. P.Tripathy,

Additional Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

**ORDER
23.12.2022**

**Order No.
07.**

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. The petitioner is in custody since 17.09.2021 in connection with EOW P.S. Case No. 11 of 2021 corresponding to C.T. Case No. 425 of 2021 pending in the Court of learned S.D.J.M., Bhubaneswar for the alleged commission of the offence under Sections-409/420/468/471/120-B of the I.P.C r/w. Section-66/66-C/66-D of I.T. Act.
4. The application for bail was earlier rejected by this Court as per the order dated 23.02.2022 passed in BLAPL No.10994 of 2021. The successive application on the ground that in course of investigation several materials have come on record whereby the culpability, if at all of the petitioner has been proved to be much less than what was originally alleged.
5. The brief facts of the case are that, a complaint was lodged on behalf of the M/s. Varushapriya Agrotech Pvt. Ltd., before the I.I.C. of Bharatpur P.S., Bhubaneswar. 20.01.2021 alleging that one Srinath Rana being the proprietor of Tarini Auto Agencies was appointed as Company representative and authorized to register the sale of machineries and to claim subsidy. He ran a proprietorship concern in the name and style of

Tarini Auto Agencies. It was alleged that having access to the log in I.D. of the company, the said Srinath Rana misrepresented the engine and chassis numbers of trans-planter machines and showed sale of the said machines to several farmers without actually delivering the same. In the process, he could defraud the Government as well as the Company to a huge extent by misappropriating the subsidy amount fraudulently showing sale of trans-planters. In so far as the petitioner is concerned, he is one of the dealers appointed by the Company for sale of trans-planters in the districts of Sambalpur and Jharsuguda. Investigation has unearthed that a sum of Rs.27,02,488/- was transmitted to his account and that of his wife on different occasions from different beneficiaries without supplying the machines.

6. Mr. Milan Kanungo, learned Senior Counsel for the petitioner has submitted that the allegations are vague and do not reveal any prima facie case against the petitioner. He further submits that there is also no evidence that the machines in question were not actually supplied to the farmers.

7. Mr. S.K. Mishra, learned Additional Standing Counsel has opposed the prayer for bail by submitting that there is clear evidence that the petitioner misappropriated a sum of Rs.27,02,488/- by practicing fraud.

8. I have considered the rival submissions and have also gone through the materials on record including the case diary in detail. I have also gone through the chart prepared by the prosecution showing the details of amounts said to have been transferred to the accounts of the petitioners. Prima facie, there is evidence to show transmission of amounts from the beneficiaries to the petitioners. However, on such basis, it cannot be conclusively held that the petitioners are guilty of misappropriating the same. The allegation that the Transplanter machines were not supplied, is also not positively forthcoming from the materials on record. Be that as it may, fact remains that investigation has been completed and charge sheet has been submitted since 29.12.2021. The so called further investigation, which is said to be continuing, has not

brought forth any new or additional material or evidence against the petitioner.

9. Considering all the above facts, as also the period of detention of the petitioner in custody, I am inclined to allow the prayer for bail. Let the petitioner be released on bail on such terms and conditions as the Court in seisin over the matter may deem fit and proper to impose including the following conditions that:

(i) The petitioner shall furnish cash security of Rs.10,00,000/- (Rupees Ten Lakh) in the shape of short term fixed deposit in any Nationalized Bank be placed to the Court below. Such deposit shall be without prejudice to the rival contention.

(ii) He shall surrender his passport, if any, before the Court below,

(iii) He shall fully cooperate with the I.O. in the ongoing investigation as and when required, and

(iv) He shall personally appears before the learned Court below on each date of posting of the case and in case of even single default, necessary orders shall be passed to take him to custody again.

10. The BLAPL is accordingly disposed of.

11. Urgent certified copy of this order be granted as per rule.

(Sashikanta Mishra)
Judge

Balaram