

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4982 of 2022

Pradeep Kumar Bindhani ***Petitioner***
Mr.D.P. Dhal, Senior Advocate and
Mr. B.S. Dasparida, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. Karunakar Das, ASC for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
17.06.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Badasahi P.S. Case No.115 of 2022, corresponding to C.T. Case No.346 of 2022, pending in the file of learned J.M.F.C., Betnoti, for commission of alleged offences under Sections 379/411 of I.P.C. r/w. Section 51 of Odisha Minor Mineral (Concession) Rules, 2016 and Section 18 of OMPTS Act, Section 41/42/43 of the Water Prevention and Control of Pollution Act and Section 38/39 of the Air Prevention and Control of Pollution Act.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.

4. The case of the Prosecution, in brief, is that the Petitioner was the lessee of Arpata Sand Bed of Budhabalanga river under Bada Sahi P.S. area and he has made operation of the source without valid consent to operate which has already expired since 31.03.2021. Further he has illegally extracted 21,000 cums of sand from Arpata Sand bed for the period 2021-22 whereas the allowed extraction limit for sand bed per annum is 2400 cums. Maximum and in this way, it has caused huge loss to the Government exchequer and further the joint enquiry report of committee constituted by Hon'ble Court of NGT, the lessee shall pay an amount of Rs.4,71,38,868/- towards environmental compensation for ecological damage due to illegal mining and environmental compensation of Rs.21,00,000/- for damage of the environment due to operation of the quarry without valid CTO. Hence this case.

5. Learned counsel for the Petitioner submits that Petitioner is languishing in jail custody since the date of his arrest, i.e. 01.05.2022. It is further submitted that Petitioner is an innocent person having no nexus in the alleged offence. He has been falsely implicated in this case due to ulterior motive of the informant. It is also submitted that Petitioner is an authorized lessee and has got due permission from Govt. to operate in Balanga sand bed at Arapata pursuant to agreement made between him and the Hon'ble Governor of Odisha on 24.04.2017, which was valid upto 5 years. Petitioner has further obtained permission from State Control Board Odisha on 20.04.2017 vide consent order No.9/2017-18. The further submission is that Petitioner is a law abiding citizen having all

respect to the law of the land and undertakes to abide by all the terms and conditions imposed by this Court.

6. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner on the ground that he is involved in serious offences, therefore, no leniency should be shown to the Petitioner. Accordingly, he prays for rejection of his bail application.

7. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioner, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one solvent surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the terms and conditions as would be deem fit and proper by the trial court. Failure to comply the terms and conditions as fixed by the trial court shall automatically revoke the order of bail. In such event, the trial court shall immediately issue NBW against the Petitioner and take him to judicial custody.

8. With the above direction, the BLAPL is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge