

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6269 of 2022

Amaresh Chandra Sarangi

Petitioner

Mr. B. Nayak, Advocate

-versus-

State of Odisha

Opposite Party

Mr. A.K. Nayak, Adv (OPID)

CORAM: JUSTICE V. NARASINGH

ORDER
21.09.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the OPID.
3. The petitioner is an accused in C.T. Case No.03 of 2020, pending in the file of learned Presiding Officer, Designated Court under the OPID Act, Cuttack, arising out of E.O.W., Bhubaneswar P.S. Case No.02 of 2022, offence under Sections 420/406/467/468/471/120(B) of IPC read with Section 6 of the OPID Act and is in custody since 17.06.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Presiding Officer, Designated Court under the OPID Act, Cuttack by order dated 30.06.2022 in the aforementioned case, the present BLAPL has been filed.

5. It is alleged in the FIR that one M/s. Basera Designs Pvt. Ltd. whose M.D not the petitioner before this Court have duped the investors in not allotting them land and houses as promised and approximately an amount of Rs.1,15,82,550/- (Rupees One Crore Fifteen Lakh Eighty-Two Thousand Five Hundred Fifty only) has been defalcated which is the tentative value of 76 units/flats in the project “BASERA FRESCO” in the Mouza-Sijua under Tahalis-Bhubaneswar.

6. It is alleged that the present petitioner is an witnesses to the Tripartite agreement between the Bank, the allottee and the builder Basera Designs. It is on record that an amount of Rs.31,00,000/- has been transferred to the account of M/s. Cottage Design Pvt. of Ltd of which petitioner is the M.D. and M/s. Sarangi Traders of which the petitioner is a proprietor.

7. It is submitted by the learned counsel for the petitioner that petitioner is also a victim of the dubious act of M/s.Basera Design and he cannot be made liable for the faults committed by the said M/s. Basera Design whose M.D. and others are yet to be apprehended. Hence it is submitted that his further continuance in custody is unwarranted.

8. Learned counsel for the OPID submits that investigation is going on hence the further role of the petitioner is under probe and hence releasing the petitioner at this stage will affect the ongoing investigation. He also relies on seizure of brochure of various projects floated M/s. Basera Designs Pvt. Ltd. and blank Note Pad of Basera Design (P) Ltd. from petitioners custody to fortify his

submission that he is actively involved in duping the investors at the behest of said M/s. Basera Designs Pvt. Ltd. And, since M.D and other officials of M/s. Basera Designs Pvt. Ltd. are yet to be apprehended the petitioner should not be released on bail before filing of charge sheet. In this connection learned counsel for the State relies on the judgments of the Apex Court in the Case of State of *Gujarat Vs. Mohanlal Jitmaliji Porwal and Anr.* reported in *AIR 1987 SC 1321*, *Y.S. Jagan Mohan Reddy Vs. Central Bureau of Investigation* reported in *(2013) 7 SCC 439/(2013) 55 OCR 825* and in the case of *Nimmagadda Prasad Vs. Central Bureau of Investigation* reported in *(2013) 7 SCC 466* and submits that since economic offences admittedly constitute a class by itself, white collar accused ought to be dealt with on a different scale.

9. Perused the Case Diary.

10. Considering the submission of the learned counsel for the Parties, this Court is of the considered opinion that on the basis of materials prima facie the allegation against the petitioner is that he is a signatory to the tripartite transaction and that he actively promoted the cause of M/s. Basera Designs Pvt. Ltd.

Yet at the same time he has to be held responsible for the amount transferred to the accounts M/s. Cottage Design Pvt. Ltd and M/s. Sarangi Traders, as there is no plausible explanation regarding transfer of such amount.

11. Since the investigation has progressed substantially and the same is primarily based on documentary evidence, taking into account the period of custody this Court is of the considered

opinion that further continuance of the petitioner in custody is not warranted. It may be noted that the prosecution has also not sought further custodial interrogation of the petitioner.

12. On a conspectus of materials on record this Court is of the view that the petitioner is entitled to be released on bail on such terms to ensure that the ongoing investigation is not affected.

13. Hence it is directed that the petitioner shall be released on bail on terms to be fixed by the learned Court in seisin over the matter.

14. Additionally, it is directed that the petitioner shall not leave the State of Odisha without the express permission of the Court in seisin over the matter and shall also surrender his passport.

15. It is further stipulated that he shall submit cash security to the tune of Rs.33 lakhs (Rupees Thirty Three Lakhs Only) and same shall be kept in a short term interest bearing account pledged in the name of the Court subject to final outcome.

16. He shall cooperate with the investigation and shall appear before the investigating officer as and when so summoned.

17. It shall be open to the investigating agency to seek variance of the order in the event it comes to the fore that the petitioner is not extending the desired cooperation.

18. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge