

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8543 of 2022

Biswanath Podiami

....

Petitioner

Mr. R.K. Pattanaik, Advocate

-Versus -

Republic of India (CBI)

....

Opp.Party

Mr. Sarthak Nayak, Advocate for CBI

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
02.12.2022

Order No.
02.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for CBI.
3. The petitioner is in custody since 22.12.2021 in connection with Bhubaneswar R.C. Case No. 05(A) of 2021 corresponding to T.R. Case No.13 of 2021 pending in the Court of learned Special Judge, CBI(1), Bhubaneswar for the alleged commission of offence under Sections 420/409/477-A of IPC read with Section 13(2) read with Section 13(1)(c)(d) and 13(1)(a) of P.C. Act.
4. It is alleged that the petitioner, who was working as the Sub-Postmaster of Malkangiri Colony sub-Post Office manipulated records and the software used by the Post Office to misappropriate a huge amount of money, which according to the prosecution is to the tune of Rs.1,16,86,488.05.
5. It is submitted by Mr. R.K. Pattanaik, learned counsel for the petitioner that there was no misappropriation but because of some error in the software showing the receipts and payments of the Post Office, the amount has been shown as excess, which according to the prosecution is the misappropriated amount. Mr. Pattanaik further

submits that the entire case has been foisted on wrong notion and incorrect understanding of the working of the software relating to receipt and payment of money by the Post Office. It is further submitted by Mr. Pattanaik that in the meantime trial has already begun and three witnesses have been examined, none of whom have said anything to show the complicity of the petitioner in the alleged occurrence.

6. Mr. S. Nayak, learned counsel appearing for CBI has opposed the prayer for bail by submitting that the petitioner is guilty of misappropriation as also falsification of the records, inasmuch as he used to show the receipts and deposits in the software but physically he used to misappropriate some amounts out of the deposits made to the Government account. It is further submitted by Mr. Nayak that the petitioner is a habitual offender being involved in similar case of misappropriation.

7. I have considered the rival submissions and have also gone through the case record carefully. I have also gone through the statement of witnesses examined so far. While there is a prima face case against the petitioner, yet having regard to the fact that he has been in custody for nearly a year and trial does not appear to be concluded in the near future, I am willing to take a lenient view in the matter. That apart, there is no direct material on record to show that the petitioner had definitely misappropriated the amount as alleged by prosecution.

8. Taking into consideration all the above facts, 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 condition that he shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs) in the court,

which will be without prejudice to the rival claims. Further he shall personally appear before the trial court on each date of posting of the case and in case of even a single default necessary order shall be passed by the court below to take him to custody again. It is made clear any observations made in this order shall not influence the trial Court.

9. BLAPL is accordingly disposed of.

10. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge

A.K. Rana

