

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10991 of 2022

Smt. Mamata Barik

....

Petitioner

Mr. Asok Mohanty, Advocate

-versus-

State of Odisha (Vig.)

....

Opposite Party

Mr. M.S. Rizvi, A.S.C.(Vigilance)

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

13.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr. Asok Mohanty, learned Senior Counsel appearing for the Petitioner and Mr. M.S. Rizvi, learned Addl. Standing Counsel for the Vigilance Department.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 409/477-A/120-B, I.P.C. and Section 13(2) read with Section 13(1)(c)(d) of the Prevention of Corruption Act, 1988.
4. Mr. Asok Mohanty, learned senior counsel appearing for the Petitioner, referring to the substance of the F.I.R., submits that the substance of the allegation in the present F.I.R. are identical to the substance of the allegation in Vigilance P.S. Case No.7 of 2020 corresponding to VGR Case No.6 of 2020 pending in the court of learned Special Judge (Vigilance), Cuttack. He further submits that in the other connected matter, the Petitioner has been enlarged on

bail by this Court vide order dated 15.02.2021 passed in ABLAPL No.571 of 2021. Mr. Mohanty, learned Senior Counsel further submits that the present F.I.R. has been lodged only in respect of User's Fees amounting to Rs.12,11,335/-, which is nothing but a part of the total misappropriated amount of Rs.4,94,44,826/-, as has been reported by the Special Audit Team during the audit conducted for the period from 01.06.2010 to 06.02.2014. He further submits that the entire amount of Rs.4,94,44,826/- alleged to have been misappropriated, is the subject matter of the dispute in the connected F.I.R. Mr. Mohanty, learned Senior Counsel further submits that the Petitioner is working as Joint Secretary to Govt. in Health & Family Welfare Department. Therefore, there is no scope of her absconding, in case she is released on bail.

5. Considering such submission, 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 Special Judge (Vigilance), Cuttack in VGR Case No.28 of 2022 corresponding to Cuttack Vigilance P.S. Case No.43 of 2022 within a period of four weeks from today, she shall be released on bail on such terms and conditions as the learned Special Judge may deem just and proper in the facts and circumstances of the case.

While releasing the Petitioner on bail, learned Special Judge 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 and shall produce

whatever documents in her possession, if required for the purpose of investigation.

- (ii) She shall not leave the jurisdiction of the learned trial court without prior permission of that court;
- (iii) She shall appear before the learned trial court on each and every date fixed for trial, without fail;
- (iv) She shall not try to tamper with the prosecution evidence in any manner whatsoever;

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

- 6. The ABLAPL is disposed of accordingly.
- 7. Urgent certified copy of this order be granted as per rules.
- 8. A free copy of this order be supplied to the learned A.S.C. (Vigilance) for taking needful action at his end.

(A.K. Mohapatra)
Judge