

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.11193 of 2022

Gourahari Behera

....

Petitioner

Mr. Asok Mohanty, Sr. Advocate

-versus-

State of Odisha (Vig.)

....

Opposite Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.09.2022

Order No.

02. **I.A.No.1713 of 2022**

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This I.A. has been filed for modification of the order dated 15.09.2022 passed in ABLAPL No.11193 of 2022.
3. Heard Mr. Asok Mohanty, learned Senior Counsel appearing for the Petitioner and Mr. M.S. Rizvi, learned Addl. Standing Counsel for the Vigilance Department.
4. Considering the submission of Mr. Asok Mohanty, learned Senior Counsel appearing for the Petitioner, Order No.01 dated 15.09.2022 passed in ABLAPL No.11193 of 2022 is hereby recalled, and in its place the following order is passed afresh.
5. 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.

6. 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.8 of 2020 corresponding to VGR Case No.7 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 18.02.2021 passed in ABLAPL No.13874 of 2020. Mr. Mohanty, learned Senior Counsel further submits that the present F.I.R. has been lodged only in respect of Shortage in Cash-Book amounting to Rs.1,39,68,963/-, 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 01.04.2006 to 05.04.2016. 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 a retired person. Therefore, there is no scope of his absconding, in case he is released on bail.

7. 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.29 of 2022 corresponding to Cuttack Vigilance P.S. Case

No.44 of 2022 within a period of four weeks from today, he 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 his possession, if required for the purpose of investigation.
- (ii) He shall appear before the learned trial court, as and when required by the learned trial court.
- (iii) He 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.

8. The ABLAPL and the I.A. are disposed of accordingly.
9. Urgent certified copy of this order be granted as per rules.
10. 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