

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.11194 of 2022

Kumarabara Nayak

....

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.1678 of 2022**

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This I.A. has been filed by the Petitioner for modification of the order dated 15.09.2022 passed in ABLAPL No.11194 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.11194 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 13(2)m 13(i)(c)(d) of the P.C. Act and Sections 409/477-A/120-B, I.P.C.

6. Mr. Asok Mohanty, learned senior counsel appearing for the Petitioner submits that a sum of Rs.14,39,270/- has already been recovered from the Nazir. He further submits that the total misappropriated amount is Rs.14,41,833/-. Mr. M.S. Rizvi, learned Addl. Standing Counsel (Vigilance) submits that the amount of Rs.14,39,270/- which is stated to have been recovered, needs to be verified.

7. Considering such submissions, 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, but subject to verification of recovery the fact of recovery of the aforesaid misappropriated amount of Rs.14,39,270/- as has been reported by the Board of Revenue in its Special Audit. Further it is directed that the records be made available for verification by the I.O. on the date of surrender. The release of the Petitioner shall also be subject to the following conditions –

(i) The petitioner shall cooperate in the investigation by appearing before the I.O. as and when required for the purpose, and shall produce all the relevant documents / papers which are in his possession;

(ii) He shall not 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



S.K.Parida