IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13912 of 2022

Mohammad Sabir .... ***Petitioner***
Mr. P.C Das, Advocate

-versus-

State of Odisha .... ***Opp. Party***
Mr. M.K Mohanty, ASC.

CORAM:
JUSTICE CHITTARANJAN DASH

Order No.

ORDER
28.11.2022

02. 1. Heard learned counsel for the Petitioner, the State and Shri Ramchandra Panigrahi the learned counsel appearing on behalf of the informant.

2. By means of this application the Petitioner seeks grant of application U/s. 438 Cr.P.C apprehending arrest for his alleged involvement in the offence U/s. 420/408/468/471/34 of IPC in connection with Capital P.S Case No. 848 of 2021 corresponding to C.T Case No. 7243 of 2021 pending on the files of the learned S.D.J.M., Bhubaneswar.

3. It is alleged that on the basis of the report lodged by one Prabhanjan Rath for Bazaz Finance Ltd. it is informed that the complainant company is a non banking financial company registered and incorporated under the provisions of the Companies Act, 1956 and is, inter alia, engaged in the business of granting/

disbursing diverse types of loans to its customers. It is also alleged in the report that the complainant company in course of normal business had introduced various loan facilities for the benefit of its customers and upon the application of the respective customers and further executive requisite documents submitted by them. One Mr. Subrat Pasayat was contractual resources who was assigned the task of checking the documents of the customers at assigned dealer point and if found to be genuine to process loan application form of the customer. He was deployed at M/s. Patra Electronic at Bapuji Nagar. During course of his deployment he allegedly along with Sabir, the present Petitioner processed loan application of several persons who even does not exist by using forged and manipulated documents and caused financial loss of Rs. 10,000,00/- (Rupees Ten lakhs) during last three months. The complainant company further alleges that the said Subrat Pasayat processed loan applications of Mr. Prakash Behera, Sudarshan Bhoi and other persons. To the utter surprise of the company many customers started defaulting in repayment of their monthly installments. The company immediately deployed their filed staffs for contacting those customers and visited at their addresses. It revealed that the said customers had not received product from the dealers and had also not taken any loan for the purchase of the said products from the dealer at any point of time. Some of the customers even never visited to the dealer and the dealer has also not supplied product to them. The Company immediately contacted the said Subrat Pasayat, who allegedly to have admitted that he along with the present Petitioner (Mohammad Sabir) have done the forged loan to the customers instead of delivering any products and misappropriated.

On the basis of the report the FIR was registered as above noted. Apprehending arrest the Petitioner moves in the present.

4. It is submitted by the learned counsel for the Petitioner that there appears no material against the present Petitioner to bring within the offence U/s. 420/408/468/471/34 of IPC. According to him there is absolutely no semblance of documents showing the present Petitioner to have prepared any documents or received money or any product from the dealer against sanction of loan from any persons he therefore, submits that the Petitioner may be considered for bail.

5. The learned counsel for the State as well as the counsel for the Informant Mr. Ramchandra Panigrahi submitted that the present Petitioner along with the co-accused Subrat Pasayat committed fraud with the customers and have swindled the money on behalf of the complaint Company M/s Bazaz Finance Limited. He submitted the list of items allegedly to have been given by the dealer for supply to the customers some statement of the customers have also been brought to the notice of the Court wherein the customers stated to have visited the office of the present Petitioner and supplied the documents in respect to the loan to the present Petitioner. Those statement however, does not form part of the investigation. Be that as it may, apparently no such documents finds place wherein it can be readily inferred that the present Petitioner to have recommended, sponsored the applicant customers for obtaining loan from the Petitioner Company nothing material, at this stage has also been brought to infer the present Petitioner to have received money on account of the complaint Company either

in the shape of cheque or credited to any account standing to his credit. Since the investigation is in progress and the question of fraud surfaces against the present Petitioner, while this Court is not inclined to grant the anticipatory bail, it is directed that if he so chooses and surrender before the Court in seisin over the matter within three weeks hence, and moves for bail, the learned court below shall dispose of his application keeping in view the aforesaid facts and dispose of the same in the first hour strictly on the basis of the materials available on record on its own merit.

6. In case of rejection of the bail application by the learned court, the Petitioner may move for bail before the higher forum in the second hour of the same day. In that event, the higher forum shall consider and dispose of the bail application of the Petitioner on the same day on its own merit.

7. Case diary be made available to the learned courts below as soon as possible to facilitate disposal of the bail application of the Petitioner on the same day.

8. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

B.K Sahoo