

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.14613 of 2022

***Biswanath Khandaitiray @
Khandeitaray @ Dipu*** ***Petitioner***

Mr. S.K. Bhanjadeo, Advocate

-versus-

State of Odisha ***Opp. Party***
Mr. Debasis Biswal, ASC

**CORAM:
JUSTICE CHITTARANJAN DASH**

**ORDER
13.12.2022**

Order No.

02.

1. Heard learned counsel for the Petitioner and the State.
2. This is an application for bail U/s.438 Cr.P.C. filed by the Petitioner in apprehension of arrest for his alleged involvement in the offences U/s.379/411/120-B/34 IPC read with Section 51(i) of the OMMC Rule and Section 12 of the OMPTS and OTH Unlawful Activities Act and Sections 3 and 4 of the ES Act
3. Learned counsel for the Petitioner submits that the present Petitioner has been leased out the area in which the raid was conducted and the Petitioner was alleged to have extracted black stone from the Sankhari South New Building stone quarry. It is further submitted that the royalty has been paid timely besides other official dues and the extraction of stone from the Sankhari South New Building stone quarry is authorized and the Petitioner has

never resorted to unauthorized extraction of black stone. He has also annexed the document in Annexure-2 series showing the lease of the stone quarry and the extent of extraction of stone besides the receipt against payment of royalty and other statutory dues. There is no material appearing in the FIR as to the fact that the raiding party examined this aspect as to if the Petitioner is an authorized licensee in respect to the said stone quarry. There is also documents that the Petitioner to have taken the clearance from the Orissa State Pollution Control Board and other necessary documents required for extraction of stone from the quarry and in support of submission of learned counsel for the Petitioner that the Petitioner had entered into an agreement with M/s. Hanuman Enterprises, a licensee for permission of storage and use of explosive for blasting operation and a clearance to that effect has also been issued by the Deputy Collector, Judicial, Collectorate Khurda by letter dated 14th October, 2022 so also the licence issued by the Ministry of Commerce & Industry Petroleum and Explosives Safety Organization.

4. Considering the aforesaid facts, apparently there appears an authorized extraction of the stone from the quarry for which the lease has been granted in favour of the Petitioner. Be that as it may, while this Court is not inclined to grant anticipatory bail, it is directed that in the event the Petitioner surrenders in connection with Khurda Sadar P.S. Case No.219 of 2022 corresponding to G.R. Case No.1839 of 2022 pending in the court of learned S.D.J.M., Khurda within a period of two weeks' hence and moves for bail, he shall be released on such terms and conditions as would

be deemed just and proper by the said court with further conditions that he shall appear in person before the court below on each date of posting of the case unless specifically exempted by the court concerned with the further conditions that he shall appear before the IO as and when required, and shall cooperate with the investigation; shall file an undertaking that the documents supplied in connection to the case are true to the best of the knowledge of the Petitioner. Violation of any of the conditions shall entail cancellation of bail of the Petitioner. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

KC Bisoi

