

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 14813 of 2022

Srinivas Shankar Mutta @ Mutta* *Petitioner
Shankar Srinivas

Mr. K. N. Pattanaik, Advocate

-versus-

State of Odisha* *Opp. Party
Mr. S. Patra, ASC

**CORAM:
JUSTICE CHITTARANJAN DASH**

Order No.

**ORDER
14.12.2022**

02. 1. Heard learned counsel for the Petitioners 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. 120(B)/420/467/468/471 of IPC of IPC.
3. It is submitted by learned counsel for the Petitioner that the S.I. of Police (Bank Fraud Section), Detective Department, Kolkata in Hare Street PS/DD Case No.297 dated 20.10.2022 issued notice under section 160 of CrPC in connection with the said case alleging involvement of the present Petitioner in offence under Section 120(B)/420/467/468/471 of IPC registered against him being the owner-cum-Managing Director, Seven Hills Estates Limited (Hotels) Annexure-1.

4. According to learned counsel since the Petitioner could not appear as directed in the notice under Annexure-1 he had properly informed the authority. It is also submitted that there is some bank fraud and the present Petitioner has been named by some of the co-accused persons who have been arrested in connection with the said fraud and as such the Petitioner is apprehending custodial interrogation, once he attends the Office of the S.I. of Police as directed vide Memo No. 117/BFS/DD, dated 07.11.2022 under Annexure-1. He, therefore, prayed for anticipatory bail.

5. Learned counsel for the State, on the other hand, opposed the bail application under Annexure-1 in vehemence.

6. Keeping in view the submissions of the parties and perusal of the case record it reveals that the Petitioner has been issued with notice U/s. 160 CrPC under Annexure -1 at the office of the S.I. of Police (Bank Fraud Section), Detective Department, Kolkata.

7. Section 438 of CrPC stipulates for bail to a person apprehending arrest and it confers power only upon the High Court and the Court of Session to grant anticipatory bail. Learned counsel for the Petitioner while did not mention anything as regards a transit bail in his prayer, in course of his submission, he pointed his argument with regard to a “transit bail”.

8. The Apex Court in the matter of **Gurbakash Singh Sibbia and Ors. Vrs. State of Punjab** considered various aspects of powers under section 438 of CrPC. It is observed therein that there is no restriction on exercise of powers under Section 438 of CrPC in respect of the offence outside the State.

9. It is apt to mention here that there are various judgments which have taken view that such orders can be passed protecting the citizens either for limited period or between final reliefs in respect of the offence registered in different States. The 41st Law Commission report recommends the provision of anticipatory bail to safeguard the right to life and personal liberty of a person under Article 21 of the Constitution of India. While the anticipatory bail is granted in anticipation of arrest, it protects the detention of the accused during the period of transit to require the accused to reach the competent court from the place he is sought to be arrested. Be that as it may, in the present case, the Petitioner intends transit bail seeking his protection temporarily.

10. Taking note of the judgments, the grant of transit bail in respect to the case registered within the jurisdiction of another High Court in exercise of the power under Section 438 of Cr.P.C has been dealt with in the matter of *Nikta Jacov Vs. the State of Maharashtra*, (Anticipatory Bail Application No.441 of 2021, decided on 17.02.2021), *Teesta Atul Setalvad and Anr. Vs. State of Maharashtra and Ors.* (Anticipatory Bail Appliaiton No.14 of 2014, decided on 31.01.2014).

11. In the light of the aforesaid judgments, it is submitted by the learned counsel for the Petitioner that this Court is competent to grant protection to the Petitioner while in transit to appear before the authority to face interrogation to reach the jurisdiction of the court where subject matter of the dispute lies.

12. Considering the aforesaid facts that the date on which the authority had directed the Petitioner to appear vide Annexure-1 having been expired, the Petitioner apprehends arrest. In such view of the matter keeping in mind the above facts and circumstances, and relying on the decisions above referred this Court deems just and proper to give protection to the Petitioner if he will approach the competent authority for proper remedy under CrPC and hence, directs that in the event of arrest, the Petitioner shall be released on bail by the Arresting Officer upon personal bond of ₹50,000.00 (Rupees Fifty Thousand) to the satisfaction of the Arresting Officer.

13. It is made clear that this transit bail shall remain in force for a period of six weeks only from today.

14. With the aforesaid observations, the ABLAPL is disposed of.

Urgent certified copy of this order be granted on proper application.

(Chittaranjan Dash)
Judge

AK Pradhan