IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 520 of 2021

Shyam Sagar Say .... **Petitioner**

Mr. D.K. Mohapatra, Adv.

\- Versus -

State of Odisha (Vig.) .... **Opp.Party**

Mr. Sangram Das, Standing Counsel for Vigilance Department

CORAM:
JUSTICE SASHIKANTA MISHRA

ORDER
03.11.2022

Order No. 3.

1. This matter is taken up through hybrid mode.

2. Heard learned counsel for the petitioner and learned Standing Counsel for Vigilance Department.

3. The petitioner is an accused in a vigilance case being Vigilance G.R. Case No. 27 of 2019 pending before the learned Special Judge, Vigilance, Sundargarh.

4. This being a case of disproportionate assets it was prima facie found that the petitioner's assets are disproportionate to his known sources of income to the extent of Rs.93,41,272.00. In course of house search, out of several articles it was found that a sum of Rs.13,14,879.47 was lying in deposit in Savings Bank Account in State Bank of India, Main Branch. The petitioner filed an application under Section 457 Cr.P.C. for release of the ATM Cards, cheque book, pass book etc. with a prayer to defreeze the aforesaid bank account which was frozen on the prayer of the I.O. Learned court below after considering the rival submissions and the materials on record disposed of the application with the following observations:

> *"Let the seized pass book, cheque book and ATM master card vide A/C No. 11190198975 of Shyam Sundr Say, be released in zima of the accused petitioner Shyam Sagar Say on execution of zimanama with the following conditions*
> *(i) to keep the balance amount of Rs.13,14,879.47 as on the date of house search i.e., on 06.12.2019 in tact until further order.*
> *to produce the said cheque book containing used and unused cheques, if any, after taking in zima and the said ATM cards, as and when required by the I.O. for the purpose of further investigation of the case, if any, as well as by the Court during trial."*

5. It is submitted by learned counsel for the petitioner that the case having been registered against him and the bank accounts and all other properties having been seized there was no necessity for the court below to direct the petitioner to maintain the balance of Rs.13,14,879.47 intact in the account.

6. Mr. S. Das, learned Standing Counsel appearing for the Vigilance Department contends that there is prima facie proof that the amount standing in the account in question is ill-gotten and part of the disproportionate assets and therefore, if released at this stage it would cause serious prejudice to the prosecution.

7. Having considered the rival submissions and the facts of this case, this Court finds no reason to interfere with the impugned order inasmuch as the petitioner has been granted liberty to operate his bank account but only keeping a particular amount as balance. The cheque books including the unutilized cheques, the ATM cards have been released in his favour. Investigation is in progress. The petitioner claims that the calculation of the income and expenditure by the Investigating Officer is erroneous. This is a matter to be ascertained in course of investigation. It is open to the petitioner to approach the investigating officer to apprise him if

any such items/sources of income have not been taken into account. But fact remains, at present, there is prima facie proof of the disproportionate assets being to the tune of more than 93 lakhs. In such circumstances, this Court finds no reason to interfere with the order impugned.

8. The CRLREV is dismissed.

(Sashikanta Mishra)
Judge

A.K. Rana