

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10054 of 2023

Nilam Kumar Swain

Petitioner

....

Mr. S. Dash, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S. Mishra, A.S.C.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER
26.09.2023

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner, learned Addl. Standing Counsel for the State. Perused the records.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Section 420 of the I.P.C.
4. It is submitted by the learned counsel appearing for the Petitioner that initially intention of the Petitioner was not dishonest and the Petitioner never wanted to cheat the informant. It is further contended that on the basis of a sale deed the Petitioner had acquired a bar of supply land which was sold to many persons like the Petitioner by virtue of registered sale deed. Eventually the original sale deed which was executed by the Petitioner from the original land owner was cancelled as a result of which the subsequent sale

deed executed in favour the Petitioner and similarly situated other persons have become invalid in law. Thereafter, the land which was mutated in the land name of the Petitioner was revised and the same was again recorded in the name of the original recorded owner. Being aggrieved by such conduct the informant has lodged the present F.I.R. either to provide the land or to return the money as the Petitioner by practising fraud has taken away money from the informant.

5. Learned counsel for the Petitioner at this juncture submitted that the Petitioner does not dispute acceptance of money from the informant which a matter of record. However, he submitted that since there are large number of such purchasers to whom he had returned the money, he needs some time to arrange the fund so that he can either return the money or provide them alternative land. Learned counsel for the Petitioner further referring to the orders passed in BLAPL No.4502 of 2023 as well as BLAPL No.4707 of 2023 and many similar cases submitted before this Court that a Coordinate Bench while considering the regular bail application of the Petitioner has granted time to the Petitioner to return the money to the informants in those cases.

6. Learned counsel for the State, on the other hand objected to the release of the Petitioner on the ground that the allegations made in the F.I.R. are serious in nature. In the event, the Petitioner is released on bail he may not be returned the money. It is also contended that there are several such antecedents against the petitioner.

7. Considering such submissions made by the learned counsels appearing for the respective parties and on a conspectus of the

surrounding facts and circumstances as well as the factual background as has been narrated hereinabove, this Court is inclined to release the Petitioner on bail on stringent conditions. Accordingly, in the event the Petitioner surrenders and moves for bail before the learned J.M.F.C.-IV, Bhubaneswar in C.T. Case No.64 of 2023 arising out of Badagad P.S. Case No.40 of 2023 within a period of four weeks from today, the learned court in seisin over the matter shall release the Petitioner on bail subject to the following conditions:-

I. The Petitioner shall made every endeavour to refund the money of the informant in six equally monthly installments, payment of first installment shall commence from the month of December. Thereafter, the monthly installment be paid in subsequent months, accordingly the entire amount a sum of Rs.15,00,000/- shall be returned to the informant.

II. He shall not indulge in similar criminal offences while on bail.

III. He shall cooperate with the investigation and shall appear before the Police Station as and when required by the I.O. for the purpose of investigation and shall appear before the trial court on each date of posting of case without fail.

Violation of such conditions shall entail cancellation of the bail application.

8. While disposing the bail application this Court further grants liberty to the informant to seek for cancellation of bail, in the event, the Petitioner fails to make default in installments payment as has been directed hereinabove.

9. The ABLAPL is disposed of accordingly.
10. Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

Anil



Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR SAHOO
Designation: Ex-A.R.-cum-Sr. Secretary
Reason: Authentication
Location: High Court of Orissa
Date: 02-Oct-2023 15:37:20

