

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 4616 of 2023

Shashank Agrawal

....

Petitioner

Mr. P. Acharya, Sr. Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. D. Biswal, ASC

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

27.07.2023

Order No.

04.

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. 379/420/403/120-B/119/468/166-A/34 of IPC R/w. Sections 12 Orissa Mines and Minerals (Prevention of Theft Smuggling Activities) Act and 68 of the Orissa Minor Minerals Concessions Rules in connection with Chandpur P.S Case No. 0079 of 2023 corresponding to G.R Case No. 184 of 2023 pending in the court of the learned J.M.F.C., Ranpur.
3. Perusal of the FIR reveals that the Petitioner, who is the Director of Agrawal Infrabuild Pvt. Ltd, had received a temporary quarry permit for extraction and transportation of ordinary earth, and had also received further temporary quarry permits. He has allegedly extracted ordinary soil from the lease land and extracted Morrum from the said land without obtaining

a mining plan, in alleged connivance with the co-accused Government Officers.

4. It further reveals from the case record that the team of enquiry in course of the inspection observed that instead of excavation from the approved leased area the lessee has excavated beyond the approved lease area as per the mining plan. Even though he has excavated less quantity from the approved leased area, actually he has excavated more from the unauthorized area. As per calculation 1066.769 Cum. laterite has been excavated in the lease area by the lessee (Susanta Kumar Barad) against approved quantity of 13867.20 cum. during the period from 23.02.2022 to 23.10.2022. The record also reveals that the team of enquiry detected illegal extraction of laterite stone to the quantity of 53484.399 cum. and 1804023.934 cum of morrum from the suit plot has been illegally extracted. The sairat case record and the temporary permit case record reveals that the following irregularities were committed by the lessee under the support of the then Tahsildar, Revenue Inspector, Revenue Supervisor and staff of the Office who are directly/indirectly responsible for illegal extraction of minor minerals from the suit plot sustaining heavy lost to the Government exchequer by the lessee Susanta Kumar Barad and M/s. Infrabuild Pvt. Ltd.

5. Mr. Acharya, learned Sr. Counsel for the Petitioner submitted that admitting the fact as alleged in entirety the offence as regards extraction is compoundable and the authorities may raise penalty against the same which the Petitioner would pay if found correct. Leaving apart the above there is no other offence applicable to the Petitioner since he is neither involved in alleged

manipulation of the record or cheating in as much as the activities of extraction of morrum/ minerals is under the direct supervision of the authorities having excess to the area of lease and as such the Petitioner may be considered for the pre-arrest bail.

6. It is submitted by Mr. Biswal learned Addl. Standing Counsel that the Petitioner is responsible for illegally extracting morrum from the area not been leased out to him and has extracted huge quantity of minerals without any authority and is amenable to the offences alleged for having extracted minerals over and above the authorized limit causing not only a loss to the government exchequer but affecting the environment.

7. Having regard to the facts and circumstances, the seriousness and gravity of the offence it is directed that in the event of arrest of the Petitioner he shall be released on bail by the arresting officer on such terms and condition as would deem fit and proper to ensure his presence for a proper investigation.

8. It is, however, made clear that the investigating agency if, in its opinion found the Petitioner is disassociating himself or not cooperating in the investigation in any manner, may resort to custodial interrogation forthwith in accordance with law without further adherence to this order. The ABLAPL stands disposed of accordingly.

(Chittaranjan Dash)
Judge

BKSahoo