

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5917 of 2022

Krishna Kumar **Petitioner**

Mr. S.R. Mohapatra, Advocate.

-versus-

State of Odisha **Opp. Party.**

*Mr. P.B. Tripathy,
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
10.07.2023**

Order No.

14.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

This is an application under section 439 of Cr.P.C. for grant of bail to the petitioner in connection with 2(a)C.C. No.05 of 2021(N), arising out of P.R. No.177/2020-21 dated 30.01.2021 for the offence punishable under section 20(b)(ii)(C) of the N.D.P.S. Act pending in the Court of learned 3rd Additional Sessions Judge, Berhampur, Ganjam.

When the matter was taken up on 06.02.2023, learned counsel for the State sought time to verify whether the address furnished by the petitioner in the cause title of the bail application is authentic or not, as the petitioner is said to be a native of district Hathras in the State of Uttar Pradesh. On such submission, the Superintendent of Police, Ganjam was directed to make necessary communication to the Superintendent of Police, Hathras in the State of Uttar Pradesh and report to this Court by the next date.

The matter was thereafter listed on 27.02.2023, 14.03.2023, 03.04.2023 and 11.04.2023. On all these dates, learned counsel for the State took time to obtain instruction

regarding address verification of the petitioner. On 02.05.2023, learned counsel for the State submitted that even though as per the order dated 06.02.2023, correspondence has been made by the Superintendent of Police, Ganjam with the Superintendent of Police, Hathras in the State of Uttar Pradesh but no response has been received from the other side. The Superintendent of Police, Ganjam was asked to file an affidavit to that effect.

On 15.05.2023, learned counsel for the State submitted that since it is an excise matter, the Superintendent of Excise, Berhampur has to file the affidavit and not the Superintendent of Police, Ganjam as per order dated 02.05.2023. Accordingly, the order was modified permitting the Superintendent of Excise, Berhampur to file an affidavit.

The matter was next listed on 21.06.2023 and on that day also learned counsel for the State took time to comply with the order dated 15.5.2023. The affidavit was ultimately filed by the Superintendent of Excise, Berhampur which is dated 23.06.2023 from which it appears that in spite of repeated communications made to the Superintendent of Police, Hathras in the State of Uttar Pradesh to furnish correctness of the address of the petitioner, no report has been received. Thus, it is apparent that in spite of sufficient opportunity given to the learned counsel for the State to verify as to whether the address furnished by the petitioner in the cause title is correct or not, the same has not been complied with.

It is indeed a very sorry state of affair. The Constitution of India embodies a federal structure of government which essentially requires a strong sense of cooperation among not only the Governments of the Centre and the States but also the provincial Governments *inter se*. Thus, these kind of issues require to be sorted out at the Government level so that appropriate instructions can be issued to the responsible

authorities well within the time. Otherwise this Court would not be left with any other better option but to pass stringent orders against the erring officials and may also initiate the proceedings under the Contempt of Courts Act.

In a similar type of case, the Under Secretary to the Government of Odisha had appeared in person and assured this Court to look into the matter and find the necessary solutions.

Learned counsel for the petitioner has already furnished the names, addresses and documents of two local sureties to the learned counsel for the State.

Learned counsel for the State seeks some time to obtain instruction on the authenticity of the documents supplied and also the willingness of the bailors to take the petitioner on bail.

List this matter in the week commencing from 24th July 2023.

Let a copy of this order be communicated to the Chief Secretary, Government of Odisha by the Registry for taking prompt action on the matter at the Government level. A free copy of the order also be handed over to the learned counsel for the State.

(S.K. Sahoo)
Judge