



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6782 of 2025

(In the matter of application under Section 483 of BNSS).

Soumya Ranjan Panda ... ***Petitioner***

-versus-

State of Odisha ... ***Opposite Party***

For Petitioner : ***Mr. D. Panda, Advocate***

For Opposite Party : ***Mr. P. Satpathy, Addl. PP***
Mr. S. Mohanty,
Advocate(Informant)

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING : 09.12.2025

DATE OF JUDGMENT : 10.12.2025

G. Satapathy, J.

1. This is a bail application U/S.483 of BNSS by the Petitioner for grant of bail in connection with Bariramchandrapur PS Case No.211 of 2025 arising out of CT Case No.01 of 2025 for commission of offences punishable U/Ss. 314/303(2)/316(4)/318(4) of BNS pending in the Court of learned JMFC, Baripal, Jajpur, on the main allegation of committing large scale financial fraud to the tune of USD 1,25,000/- by setting up and using his own Company FosGro Resources Ltd. in Zambia.



2. The present case arises out of an FIR lodged by one Dharampal Singla, the Director FosGro Resources Pvt. Ltd., New Delhi, India before the IIC Bariramchandrapur PS by stating *inter-alia* that the Petitioner was appointed as Finance and Admin Manager in their company on 19.02.2024 and was then transferred to Company's partner Company namely, Igrow Resources Ltd., Zambia to manage all the activities of the partner company in Zambia and he accordingly, continued to be the Company's employees in India with salary paid to him in India from the parent company, but on 28.02.2025, the Petitioner with malafide intention opened a Company in the same name FosGro Resources Ltd. in Zambia by opening a bank account with First Capital Bank, Zambia. It is further alleged by the informant that accordingly, on 31.03.2025 the Petitioner fraudulently took a refund of USD 6.590/- from Safpack Packaging Solutions Ltd., Zambia in his fraudulent Company and on 14.04.2025, he again illegally sold 20 tonnes of Urea Stock to Lusaka Agrovat Ltd., Zambia and received payment of USD 11,100/- in his fraudulent Company's Bank Account. On 24.04.2025, the Petitioner again transferred USD



1,00,000/- from IGROW Resources Company's Bank Account into his own fraudulent company's Bank Account and accordingly, USD 99,990/- was credited to his fraudulent Company's Bank Account on 25.04.2025 with net bank charges of USD 10. It is further alleged that from 11.04.2025 to 25.04.2025, the Petitioner had withdrawn USD 46,000/- in cash from his Company's Bank Account and remitted USD 69,000/- to his account maintained at ICICI Bank Ltd. in Jajpur Branch (Odisha) and he further transferred INR 20,00,000/- from his ICICI Bank Account to his another SBI Bank Account, Kalpada Branch, Jajpur. Further, the petitioner is alleged to have stolen company's petty cash of approximately INR 20,00,000/-, company's assets like bank debit and credit cards, laptop and Iphone containing Company's confidential data, but on Iphone tracking, his Iphone was found switched off on 10.05.2025 near Chandaka Industrial Estate Patia, Bhubaneswar.

On the aforesaid FIR, Bariramchandrapur PS Case No. 211 of 2025 was registered and the matter was investigated into resulting in arrest of the Petitioner on



15.05.2025 with submission of charge sheet on 14.07.2025. The Petitioner being unsuccessful in securing his bail before the learned Sessions Judge, Jajpur is before this Court in this bail application.

3. Heard Mr. Devasish Panda, learned counsel for the petitioner, Mr. Siddhant Mohanty, learned counsel for the informant and Mr. P. Satpathy, learned Addl. Public Prosecutor in the matter and perused the record.

4. After having considered the rival submissions upon perusal of record, it appears that the informant has alleged against the petitioner for cheating the company by misappropriating its fund, but fact remains that right now the trial has already commenced with examination of two witnesses, however, it is brought to the notice of the Court that the trial has been stayed by the order of this Court in the meantime. Be that as it may, an interesting issue/question touching upon the territorial jurisdiction of the Court to try the case has cropped up in the course of rival submissions inasmuch as it is advanced by Mr. Panda that since the offences have been allegedly committed by the petitioner in the country of Zambia, the



Court at Baripal Jajpur cannot proceed with the trial of the case in view of the bar contained in Sec.188 of CrPC/208 of BNSS, but such submission was countered by learned counsel for the informant by contending inter alia that since the offences committed by the petitioner are continuing offences, the Court at Baripal Jajpur has ample jurisdiction to proceed against the petitioner. In addressing such contention of the parties, it is considered no more *res integra* that when an offence is committed by an Indian citizen outside India, he may be dealt with in respect of such offence as it had been committed at any place within India, provided no such offence shall be enquired into or tried in India except with previous sanction of Central Government. The aforesaid principle has been laid down in Sec.208 of BNSS (188 of CrPC) which reads as under:-

208. Offence committed outside India

"When an offence is committed outside India-

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India, he may be dealt with in respect of such offence as if it had been committed at any place within India at which



he may be found or where the offence is registered in India:

Provided that notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government”.

Further, Sec.209 of BNSS (189 of CrPC) also prescribes as under:-

209. Receipt of Evidence relating to offences committed outside India.

“When any offence alleged to have been committed in a territory outside India is being inquired into or tried under the provisions of section 208, the Central Government may, if it thinks fit, direct that copies of depositions made or exhibits produced, either in physical form or in electronic form, before a judicial officer, in or for that territory or before a diplomatic or consular representative of India in or for that territory shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate”.

5. It is worthwhile to state here that the affidavit sworn in by the petitioner reveals that an FIR has been lodged against him on 26.04.2025 at Emmasdale P.S., District-Lusaka, Republic of Zambia and pending before learned Chief Resident Magistrate, Sub-ordinate Court, Economic & Financial Crimes Division for having committed an offence of “Theft by Servants” Contrary to



S-278 of the Penal Code, Ch-87 of the Laws of Zambia. Thus, a careful scrutiny of the materials placed on record, it is not in dispute and borne out from the record that some part of the alleged transaction had in fact been taken place in the country of Zambia as revealed from the FIR averments, so also some Court at Zambia has been approached by the informant. Further, the document under Annexure-B filed by the informant reveals that Zambia Police Service, Lusaka division headquarters has been reported by one Mr. Ansul Mehta for theft by the Servant (petitioner) for a sum of USD 1,25,000(US Dollar). Besides, the document under Annexure-C as filed by the informant also reveals that a warrant of arrest has been issued against the petitioner by the Sub-ordinate Court 1st Class, Zambia. It is also alleged in the FIR that some amount withdrawn by the petitioner from company's Bank account has been deposited by the petitioner in his ICICI Bank account in Jajpur Branch, Odisha & SBI Bank account at Kaipada Branch, Jajpur. However, this Court does not consider it proper to decide the jurisdictional issue, but finds the allegation by the informant against the petitioner prima



facie constitute some offence in India, since it is stated in the charge-sheet that one laptop, iPhone, power bank, earphone, hard disks, ATM cards of different banks were seized from the possession of the petitioner and it was alleged that the petitioner had stolen away company's bank debit and credit cards, laptop, iPhone containing with confidential data.

6. One thing also comes to the mind of the Court that when the Court at Zambia is in seisin over part of the matter/transaction, whether the Court in India would be having jurisdiction to proceed against the petitioner, but the answer would be "Yes", since sub Sec.6 of Sec.337 of BNSS (300 of CrPC) prescribes that nothing in the section shall affect the provision of Sec.26 of the General Clauses Act, 1897/ **Sec.208 of this Sanhita** and Sec.337 of BNSS (300 of CrPC) provides that the person once convicted or acquitted not to be tried for the same offence. Similarly, Article 20(2) of the Constitution of India says that no person shall be prosecuted and punished for the same offence more than a once. The aforesaid exception as provided in Sec.337(6) of BNSS



makes it very clear that if the person who is an Indian citizen has committed an offence beyond India, he can still be prosecuted in India, as if the offence had been committed within India. Furthermore, the bar as aforesaid will be applicable only when a person has been tried by a Court competent jurisdiction for an offence and has been convicted or acquitted of such offence and he is going to be tried again for such offence, but in this case, the petitioner is yet to be prosecuted in any foreign country, although a criminal case has been registered against him in the country of Zambia. Besides, the aforesaid bar will not be applicable since the acts done by such person beyond India may be an offence in that country for violation of law, but the same may not be an offence or different offence in our country and vice-versa, however, the alleged acts of such person may be a different offence by the law of that country, but the same acts in India may be another offence. On a conspectus of the allegation leveled against the petitioner in this case, it is very much clear that the bar of double jeopardy would not be attracted in this case.



7. Moreover, the allegations leveled by the informant against the petitioner disclose that some part of the transaction has been taken place in Zambia and some part in India, but in that situation, what should be the role of the Court in approaching such case has been clarified in ***Thota Venkateswarlu Vrs. State of Andhra Pradesh through Principal Secretary and Another; (2011) 9 SCC 527***, wherein the Apex Court in a situation of commission of continuing offence has been pleased to hold in Paragraphs 17 & 18 as under:-

*"17. It may also be indicated that the provisions of the Penal Code have been extended to offences committed by any citizen of India **in any place within and beyond India** by virtue of Section 4 thereof. Accordingly, the **offences committed in Botswana by an Indian citizen would also be amenable to the provisions of the Penal Code**, subject to the **limitation** imposed under the proviso to **Section 188 CrPC**.*

*18. Having regard to the above, while we see no reason to interfere with the High Court's decision to reject the petitioner's prayer for quashing of the proceedings in Complaint Case No. 307 of 2007, we also make it clear that the learned **Magistrate may proceed with the trial relating to the offences alleged to have been committed in India**. However, in respect of the **offences alleged to have been committed outside India**, the learned **Magistrate shall not proceed with the trial without the sanction** of the Central Government as envisaged in the **proviso to Section 188 CrPC**".*



8. In this case, it is not in dispute that the trial has already commenced with examination of two witnesses, but the petitioner is in custody since 15.05.2025, however, certainly the petitioner cannot be prosecuted for the acts committed by him in Zambia without obtaining prior sanction from the Central Government U/S.208 of BNSS (188 of CrPC). Looking at the allegation levelled against the petitioner and the alleged acts committed by him in India in relation to the FIR lodged by the informant and the articles of the company, such as Laptop, iphone having already been recovered and seized and keeping in view the inherent right of the petitioner to be presumed innocent until proven guilty at the trial and there being no custodial interrogation required in this case and the petitioner having already sworn an affidavit to submit to the jurisdiction of the Court at Zambia subject to release of his passport which has been seized in this case and regard being had to the offences being triable by Magistrate, but trial having stayed in the meantime as informed by the parties and the offences being not punishable with death or imprisonment for life



and following the well recognized principle "bail is the rule, but jail is the exception", this Court without expressing any view on merit admits the petitioner to bail, however, subject to certain conditions.

9. Hence, the bail application of the Petitioner stands allowed and he is allowed to go on bail on furnishing bail bonds of Rs.5,00,000/- (Rupees Five Lakhs) with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper by it with following conditions:-

(i) the petitioner shall not commit similar type of offence while on bail,

(ii) the petitioner shall surrender to the jurisdiction of the Court of Zambia, if he is acquitted of the charge in this case, but in case of conviction, his submission to the jurisdiction of the Court at Zambia must be in accordance with law and the rules governing the field,

(iii) the Petitioner shall inform the Court as well as the Investigating Agency as to his place of residence during the trial by providing his mobile number(s), residential address, e-mail, if any, and other documents in support of proof of his residence. The Petitioner shall not change his address of



residence without intimating to the Court and Investigating Agency and

(iv) the petitioner shall report attendance before the Jurisdictional Police Station once in a month preferably on a Sunday in between 10 A.M. to 12 Noon till disposal of the case.

The I.I.C. of Jurisdictional Police Station shall not detain the petitioner unnecessarily after recording his attendance beyond the time as stipulated. It is clarified that the condition No. (iv) has in fact been imposed against the petitioner to secure his presence in the Court as it has been brought to the notice of the Court that some Court at Zambia has issued warrant against the petitioner.

10. Accordingly, the bail application stands disposed of.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 10th December, 2025/Jayakrushna*