IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NOs.7534 & 7952 of 2025

(In the matter of applications under Section 483 of BNSS, 2023).

Susanta Kumar Samal … ***Petitioners***
(In BLAPL No.7534 of 2025)
Soumya Sankar Chakra @ Raja
(In BLAPL No.7952 of 2025)

Mr. A. Parija, Sr. Advocate
along with Mr. A. Behera, Advocate
(in BLAPL No.7534 of 2025)
Mr. C. Kanungo, Advocate
along with Mr. A. Mohanty, Advocate
(in BLAPL No.7952 of 2025)

-versus-

State of Odisha … ***Opposite Party***

Mr. P.S. Nayak, Addl. PP

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING :29.10.2025
DATE OF JUDGMENT:31.10.2025

G. Satapathy, J.

1. These are the bail applications U/S.483 of BNSS by the petitioners for grant of bail in connection with EOW PS Case No.03 of 2025 corresponding to CT Case No.4(C) of 2025 pending in the file of learned Presiding Officer, Designated Court, Under OPID Act, Balasore, for commission of offences punishable U/Ss.406/409/420/467/468/471/120-B of IPC, on the main allegation of committing large scale financial fraud and misappropriation of crores of rupees by receiving disproportionate high payment for commercial transaction made with Gandhamardan Loading Agency and Transporting Co-operative Society Ltd. with forged documents after entering into conspiracy with co-accused persons.

2. The background of facts giving rise to these two bail applications are that around eighteen years back, one society namely Gandhamardan Loading Agency and Transporting Co-operative Society Ltd, Suakati, Keonjhar (hereinafter referred to as "the society") was created for the development of the affected villages of Gandhamardan Mines, Putulipani Mines and Khandadhar Mines, but since last seven years (2017-18 to 2023-24), the president and the secretary of the aforesaid organization with assistance of others were/are doing illegal business instead of doing developmental work by taking the loading work of extracted ores from these mines to their own hand without allowing any other organization to do the same and in the process, misappropriating a sum of Rs.40 to 50 Crores annually. It is alleged that the accused persons by forging various documents and showing false expenditure under fictitious heads towards "periphery development of the affected villages and fuel charges" has allegedly misappropriated the amount, which are unearthed in a special audit conducted due to specific complaints. It is further alleged that the funds generated from the monopoly business of loading of iron ores of the society were being allegedly siphoned off by the president & secretary of the society through cash or self cheques without proper supporting document like work orders or vouchers and by not recording the transactions in the official register. On the aforesaid allegation, one Biswanath Roul has lodged an FIR before Superintendent of Police, EOW Bhubaneswar against the president Manas Ranjan Barik, secretary Utkal Das and others office bearers of the society paving the way for registration of Bhubaneswar EOW

PS Case No.03 of 2025 for commission of offences punishable U/S.406/ 409/ 420/ 467/ 468/ 471/ 120-B of IPC and the matter was investigated into and finding the complicity of the petitioners, they were taken into custody giving rise to these present bail applications after they became unsuccessful in approaching the PO, Designated Court (under OPID Act), Balasore for securing their liberty.

3. This Court has heard Mr. Ashok Kumar Parija, learned Sr. counsel who is being assisted by Mr. Arnav Behera, learned counsel for the petitioner in BLAPL No.7534 of 2025; Mr. C. Kanungo & Mr. A. Mohanty learned counsels for the petitioner in BLAPL No.7952 of 2025 and Mr. Partha Sarathi Nayak, learned Addl. Public Prosecutor in these matters and perused the record.

4. In advancing argument, Mr. Parija, learned Sr. counsel has submitted that the FIR has been lodged by one Biswanath Roul who is neither a member of the society nor is he a resident of the area of operation of the society, rather he is a rank outsider and the society is a private cooperative being self-financed and has never received any aid or funds from the government and thereby, the allegation of loss of public money or state revenue is untenable and any dispute regarding defalcation or embezzlement of money should have been appropriately addressed to by an aggrieved member U/S.67 r/w Sec.118 of the Odisha Co-operative Societies Act and any payment made to the Shankar Roadways was genuine commercial transaction pursuant to written agreement for loading, unloading and transportation work, and the same was being made against proper bills raised by Shankar Roadways with duly deduction of TDS in respect of each transactions, no criminal liability arises against the petitioners. It is further submitted by Mr. Parija that the charge-sheet shows that no money has been received by the society from government and all its income has been in the form of loading charges, but the allegations against the petitioner are for holding of the meetings of the society in his house, drafting of resolution of the society by him and personally writing the cheques not signed by the office bearers of the society. It is further argued that a sum of Rs.1,75,13,768/- was allegedly received by the petitioner for engaging one loader machine and the amount so received by him from the society is disproportionated and comparatively much higher than the usual loader charge, but the aforesaid allegations are never substantiated by the investigating agency and thereby, no offence of criminal breach of trust as contemplated U/S.406/409 of IPC is made out against the petitioner since he is not an office bearer of the society, rather he is only a C class member without any entrustment of property to him and so far the allegation of forgery against the petitioner is concerned, no document has been raised against him and thereby, no offences U/S.467/468/471 of IPC are made out against the petitioner and there is also no offence of cheating made out against the petitioner, since no inducement for delivery of property by the petitioner has been found out from the materials on record. Mr. Parija has further submitted that the offences alleged against the petitioner are triable by magistrate and the same are purely based on documentary evidence, but the investigating authority has seized all the documents and thereby, there is hardly any chance/scope of tampering of evidence by the petitioner. It is further submitted that since the prosecution has cited 112 witnesses in the charge-sheet, the trial would take considerable long time, but the petitioner having satisfied the triple test may kindly be granted bail. On the aforesaid submission, Mr. Parija has prayed to grant bail to the petitioner.

4.1. In echoing the submission of Mr. Parija, Mr. Kanungo has submitted that the allegation against the petitioner revolves around a commercial transaction and thereby, the petitioner neither is a criminal of serious offences nor is he a threat to the society and the entire case is based on documents and record which have already been seized and are in the custody of the prosecution and as such there is no question of tampering of prosecution documents by the petitioner and all the payments being made through cheques having duly accounted for with deduction of TDS which reveals no suspicious transactions and the petitioner having deep root in the society, there is no flight risk, in the event of his enlargement on bail. It is further submitted for the petitioner-Susanta Kumar Samal that although the allegation is based on the scrutiny of the bank account of the society and an amount of Rs.1,60,47,140 has been transferred to the account of M/s. Shankar Roadways whose proprietor is the other petitioner-Soumya Shankar Chakra, but the aforesaid transaction being a commercial transaction executed between the petitioner-Soumya Shankar Chakra and the society with proper bills, no offence is made out against the petitioners. It is further submitted that the allegation regarding fuel payments through "Maa Kali KSK Petrol Pump" is completely false, misleading and the co-accused being the owner of a stone crusher unit under "Shankar Minerals", which requires significant amounts of fuel for its daily operation, the petitioner was maintaining a separate fuel account with Maa Kali KSK Petrol Pump for its own business and there exists no connection or relationship between fuel consumption account of the co-accused and that of the society's fuel arrangement with Maa Kali KSK Petrol Pump, but the investigating agency has heavily relied upon the statement of Premananda Barik and Pravat Pattanaik to connect the petitioners with this case, but the same does not inspire confidence and deserves no acceptance and the statements of these two witnesses are misleading and without any factual basis and their statement have been obtained under duress and coercion and, therefore, deserves no acceptance. It is also submitted for the petitioner that prima facie there is no document or record to connect the petitioner-Susanta Kumar Samal with alleged payment of Rs.8,00,00,000/- by the society to Maa Kali Kishan Seva Kendra Petrol Pump except the statement of witness Premananda Barik and thereby no offence being strictly made out against the petitioner and he having detained in custody for substantial period may kindly be granted bail.

4.2. In opposing the bail application of both the petitioners, Mr. Partha Sarathi Nayak, learned Addl.

Public Prosecutor, however, has forcefully submitted that the president and secretary being the joint authorized signatories of the bank account of the society have issued several cheques and made cash withdrawal through bearer cheques and have shown expenditure of more than one hundred seventy five crores against the income approximately at Rs.184,00,00,000/- of the society during the alleged financial period for the year 2017-18 to 2023-24 for which the FIR has been lodged and the aforesaid expenditure have been incurred through fraudulent bill without any vouchers pursuant to the criminal conspiracy of the petitioners and other co-accused persons and the investigation so far revealed that a sum of Rs.31,36,00,000/- and some odd have been transferred to different accounts without any transaction with the society and out of the said amount, on verification of self-cheques, it reveals that a total of Rs.12,90,74,000/- have been withdrawn from the account of the society through close associate of the petitioner Soumya Sankar Chakra @ Raja, who is the proprietor of Shankar Roadways and Shankar Minerals. It is further submitted by the learned Addl. Public Prosecutor, that Shankar Roadways and Shankar Minerals deal with transportation and stone crushing units respectively and in the course of investigation, from the scrutiny of statement of the bank of accounts of the society that an amount of Rs.1,60,87,000/- and some odd only has been transferred to the account of Shankar Roadways and on further the scrutiny of three bank accounts of the society maintained with HDFC and Union Bank of India, it is revealed that the society has transferred a sum of Rs.9,39,38,000/- only to Maa Kali KSK Petrol Pump and the statement of Premananda Barik, who is the owner-cum-proprietor of the said petrol pump situated at a distance of 30km. from the office of the society reveals that aforementioned society has never taken any fuel for their vehicles, but the petitioner Soumya Shankar Chakra @ Raja had taken fuel for three agencies on credit basis and the cost of the fuel of the vehicles of the petitioner was in fact paid through cheques of the bank account of the society for a sum of Rs.9,39,38,000/- and thereby, there is a strong prima facie case against the petitioner-Soumya Shankar Chakra @ Raja for misappropriating the funds of the society by way of fraud and cheating. In praying to reject the bail applications of the petitioner Soumya Shankar Chakra @ Raja, the learned Addl. Public Prosecutor has also brought to the notice of the Court that the criminal antecedent of the petitioner for fourteen criminal cases. It is further submitted by the learned Addl. Public Prosecutor by highlighting the allegation levelled against the petitioner-Susanta Kumar Samal that the aim and objective of society was to promote economic interest of members through loading of iron ore of the OMC, Mining area namely Suakati and for development of periphery area of such mines, but in the guise of periphery development of the area, the petitioner and others have misappropriated crores of rupees of the society and in the course of interrogation, the petitioner has admitted that 51 self-cheques of the society maintained at HDFC Bank are written by him for a total amount of Rs.12,90,74,000/-

which has been withdrawn by co-accused persons towards periphery development, but Government officials like BDO Banspal, BDO Keonjhar Sadar and Regional Manager OMC have reported that no periphery development has been undertaken by the society. It is further submitted that in the course of investigation, it is found that a sum of Rs.1,64,79,768/- has been transferred to the account of the petitioner-Susanta Kumar Samal from the account of the society and a sum of Rs.10,34,000/- was transferred to his account maintained at Bank of India from the account of the society, but the petitioner has failed to give any satisfactory explanation for such withdrawal and the petitioner is also found to have one criminal antecedent of similar offence in Keonjhar Sadar PS Case No.317 of 2015 and his involvement in this case is palpable from the materials placed on record and, therefore, the petitioner- Susanta Kumar Samal also does not deserve to be released on bail.

5. After having considered the rival submissions upon perusal of record, this Court reminds that the statutory provisions of bail confers wide discretion on the Court either to grant or refuse bail to the applicant, but such exercise of discretion should not be arbitrary or *de hors* the basic principles of bail as laid down by different constitutional Courts in a catena of decisions. The parameters under which the discretion has to be considered has been well elucidated by the Apex Court in ***Prasanta Kumar Sarkar Vrs. Ashis Chatterjee & Anr : (2010) 14 SCC 496***, wherein the Apex Court in Paragraph 9 has held as under:-

> ***"9.*** *However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:*
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> > *(i) Whether there is any prima facie or reasonable ground to believe that the Accused had committed the offence;*
> >
> > *(ii) Nature and gravity of the accusation;*
> >
> > *(iii) Severity of the punishment in the event of conviction;*
> >
> > *(iv) Danger of the Accused absconding or fleeing, if released on bail;*
> >
> > *(v) Character, behavior, means, position and standing of the Accused;*

(vi) Likelihood of the offence being repeated;

(vii) Reasonable apprehension of the witnesses being influenced; and

(viii) Danger, of course, of justice being thwarted by grant of bail."

It is equally true that the High Court is bestowed with considerable discretion while deciding an application for bail, but such discretion is not unfettered and thereby, the High Court may grant bail to the applicant after application of a judicial mind, but following the well established principles, the Court has to look into/consider any prima facie materials or reasonable grounds to find out as to whether, such materials prima facie disclose the involvement of the accused for commission of the offences, besides the nature and gravity of the accusation. In the present case, there is allegation against the petitioners for large scale financial defalcation from the bank account of the society and it is not disputed that the society was in fact created for the development of the public of the periphery village of the area of mining operation and its member. A careful scrutiny of the materials placed on record reveals allegation against the petitioners for systematic manipulation of records and forgery of documents and unauthorized withdrawals of the fund of the society. It is also alleged that the petitioner-Susanta Kumar Samal has issued number of cheques in his own handwriting and there is allegation against him for misappropriating the society's fund without accounting for withdrawals through self-cheques and office bearers cheques. It is also claimed in the investigation by way of the report of government officials like BDO Banspal, BDO Keonjhar Sadar and Regional Manager OMC that no periphery development has been undertaken by the society. In his written argument, the petitioner-Soumya Sankar Chakra has acknowledged about the transaction of Rs.1,60,47,140/- by terming it as an commercial transaction between him and the society, but it is not the only allegation against the said petitioner, but also there is allegation about purchasing fuel for his own company's vehicles from Maa Kali KSK Petrol Pump through the funds of society and such allegation of misappropriation is near about Rs.9,39,00,000/- which is on the basis of the statement of the proprietor of the petrol pump namely Premananda Barik. Further, there is also an allegation against the petitioner-Soumya Sankar Chakra for directing one Pravat Pattanaik to transfer more than Rs.70lakhs which he had illegally received from the account of the society, to different accounts. Similar allegation is levelled against the petitioner- Susanta Kumar Samal for misappropriating crores of rupees of the society by cheating and forgery of documents. It is also alleged at paragraph 16.6 of the charge-sheet that so far the payment of Rs.34.65crores towards periphery development in mines affected area during the financial period of 2017-18 to 2023-24, the investigating agency on scrutiny of the records did not find any ledger relating to the payment as shown to the parties under this head accepting some entries made in the tally register which is being maintained since 2022, yet no voucher was found against the payments as shown in the tally register and some attendant-cum-worker payment sheets containing workers signature/thumb impression were produced for verification and such payment sheets are found to be false/fabricated as it lacks any certification by the executants of the work or any authority of the society. Further the detail address of the workers like father's name, village name etc., to whom payment are made has not been reflected in the said sheets and no work order was issued to the executants of the work. These are few allegations against the petitioners and other office bearers of the society which needs scrutiny in the trial.

6. It is undoubtedly claimed by the petitioners that no offence is in fact made out against the petitioners, but it is too early to say that no offence is made out against them, more particularly when the trial is yet to commence, however, the materials placed on records definitely disclose allegation against the petitioners for misappropriating the funds of the company by way of fraud and manipulation of documents. Besides, the criminal antecedents of the petitioners albeit have not been disclosed by them in their bail applications, but it is not disputed that the petitioner- Susanta Kumar Samal is having one criminal antecedent which was of course submitted by the learned Sr. counsel Mr. Parija to have been quashed by this Court, but no document has been filed to that effect, whereas the petitioner- Soumya Sankar Chakra is having fourteen criminal antecedents which stand on his way to secure liberty not only because he is involved in number of criminal cases, but also it suggests against his release on bail for likelihood of repetition of commission of offences in future by him which is one of the factors to be looked into while granting bail to an accused. In considering the bail to the applicant, the Court cannot close its eyes to the criminal antecedent of such applicant in view of the following observation in ***Ash Mohammad Vrs. Shiv Raj Singh @ Lalla babu and Anr; (2012) 9 SCC 446*** wherein, while cancelling the bail granted bail to respondent-accused therein, the Apex Court in paragraph-30 has inter alia observed as under:-

> *"30.We may usefully state that when the citizens are scared to lead a peaceful life and this kind of offences usher in an impediment in*

establishment of orderly society, the duty of the court becomes more pronounced and the burden is heavy. There should have been proper analysis of the criminal antecedents. Needless to say, imposition of conditions is subsequent to the order admitting an accused to bail. The question should be posed whether the accused deserves to be enlarged on bail or not and only thereafter issue of imposing conditions would arise. We do not deny for a moment that period of custody is a relevant factor but simultaneously the totality of circumstances and the criminal antecedents are also to be weighed. They are to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty. Regard being had to the said parameter we are inclined to think that the social concern in the case at hand deserves to be given priority over lifting the restriction of liberty of the accused."

6.1. In ***Azwar Vrs. Waseen; 2024 10 SCC 768,*** the Apex Court in Paragraph 26 has held as under:-

*"26.while considering as to whether, bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of accusations made against the accused, the manner in which crime to have been committed, the gravity of the offence, the role attributed to the accused, **the criminal antecedents of the accused**, the probability of tempering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the Court of justice and the overall desirability of releasing the accused on bail."*

7. Bail always deals with the two conflicting interests of individual liberty and societal interest, but personal liberty is paramount, however, it is not absolute in all the criminal cases and individual liberty must be subject to the procedure established by law. In the present case at hand, there is undoubtedly transactions of crores of rupees from the funds of the society and the allegation against the petitioners is for financial fraud and misappropriation of the funds of the society and the case is not entirely based on documents, but also of the oral statements of some of the witnesses and the petitioners being influential persons and one of them having number of criminal antecedents, this Court has reason enough to believe that the petitioners are in a position to influence the witnesses in the trial, if released on bail and influencing the witness is one of the consideration for refusing bail.

8. In a case involving large scale financial fraud particularly those affecting public, the Court shall be duty-bound to approach the case for bail in a cautious and guarded manner and the allegation in the present case against the petitioners is for misappropriation of substantial sum in crores of rupees over a period of seven financial years. It is not out of place to mention here that in ***CBI Vrs. Ramendu Chattopadhyay; (2020) 14 SCC 396,*** the Apex Court in paragraph 7 has held as under:-

> *"7. This Court is conscious of the need to view such economic offences having a deep-rooted conspiracy and involving a huge loss of investors' money seriously. Though further investigation is going on, as of now, the investigation discloses that the Respondent played a key role in the promotion of the chit fund scam described supra, thereby cheating a large number of innocent depositors and misappropriating their hard-earned money."*

In ***Y.S. Jagan Mohan Reddy Vrs. CBI; (2013) 7 SCC 439,*** the Apex Court in paragraph 34 and 35 has held as under:-

> *"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
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> *35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of*

securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."

9. In this case after having considered rival submissions and taking into consideration the nature and gravity of the offences as alleged against the petitioners vis-à-vis the accusations sought to be brought against them and regard being had to the materials collected in the course of investigation against the petitioners and there being prima facie materials collected by the investigating agency revealing their role in the alleged commission of the offences and the investigation prima facie revealing the money trail of serious magnitude in the financial fraud and such money of the society being not utilized for the purpose of the benefit of its beneficiaries or for the periphery development of the villages of area of operation of the mines in terms of the bye law of the society and taking into account the magnitude of the financial fraud and the propensity of the petitioners for the alleged crime and considering the totality of the materials collected by the investigating agency, this Court considers it undesirable to grant bail to the petitioners at this stage, especially when the trial is yet to commence and material witnesses are yet to be examined.

10. In the result, both the bail applications of the petitioners in BLAPL Nos. 7534 of 2025 & 7952 of 2025 stand rejected.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 31st day of October, 2025/Jayakrushna