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THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.660 of 2024

(In the matter of an application under Section 397 read with Section 401 of the Criminal Procedure Code, 1973; r/w Section 442 read with Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023)

Lakshman Srinivasan

.....

Petitioner

-Versus-

Republic of India (CBI)

.....

Opposite Party

For the Petitioner : Mr. Debashis Sinha, Advocate

For the Opp. Party : Mr. Sarthak Nayak,
Special P.P. -Cum- Retainer Counsel (CBI)

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 13.03.2025 : Date of Judgment: 10.04.2025

S.S. Mishra, J. The present Criminal Revision Petition is filed by the petitioner under Section 397 read with Section 401 of the Cr.P.C, 1973, [Corresponding provision- Section 442 read with Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023], assailing the order dated 14.08.2024 passed by the learned Special Judge (CBI), Court No.1 -cum-



the Additional Sessions Judge, Bhubaneswar in CrI. Misc Case No.32 of 2024 arising out of T.R. No.03 of 2023 corresponding to CBI/SCB/Kol P.S. Case No.RC.30/S/2014-Kol dated 05.06.2014 rejecting the application filed by the petitioner U/s. 451 read with Section 457 of Cr.P.C, 1973 seeking release of cash seized by the CBI; during investigation.

2. The learned Special Judge (CBI) – Court No.1-cum- The Additional Sessions Judge, Bhubaneswar, rejected the application of the petitioner seeking release of Rupees Fifteen Lakhs which was seized by CBI by the impugned order. It will be apposite to reproduce the operative part of the impugned order which reads as under:

“...The cash of Rs.15 lakhs seized from the office chamber of the accused-petitioner during search is not properly accounted for by him. The source of the seized cash is not clear as to whether it is legal or illegal from the averments of the petition and submissions made on behalf of the petitioner. 5. Considering the facts and circumstances of the case, nature of allegation and gravity of the offence as well as improper keeping of huge unaccounted money in shape of cash I am not inclined to allow the petition filed by the petitioner to release the cash of Rs. 15 lakhs in his favour...”

Aggrieved by such finding of the court below, the present Revision Petition has been preferred by the petitioner.



3. Heard, Mr. Debashis Sinha, learned Counsel for the petitioner and Mr. Sarthak Nayak, learned Special P.P. -Cum- Retainer Counsel (CBI) for the opposite party.

4. The present petitioner who is an accused in this case, is alleged to have been involved in an illegal money collusion fraud through M/s Infinity Realcon Ltd. by operating various investment schemes without obtaining the requisite statutory approval from the Reserve Bank of India. Following his arrest on 26th September 2022, officials of the Central Bureau of Investigation (CBI) conducted searches on the same day at multiple locations, including the office of M/s. Finshore Management Services Ltd. at Anand Lok Building, 227, A.J.C. Bose Road, Kolkata – 700020, his previous residence at Tolly Apartments and Golf Towers, and his present residence during the late hours of that night. During the search, an amount of ₹15.00 lakh cash was seized from the cupboard of his chamber/exclusive room at Anand Lok Building, 227, A.J.C. Bose Road. Subsequently, the accused petitioner was granted bail by the Hon'ble Supreme Court vide order dated 03.10.2023 in SLP No. 9318/2023.



5. Mr. Sinha, the learned counsel for the petitioner while justifying the source of the cash contended that out of the total amount seized, ₹4.50 lakh was withdrawn from the petitioner's and his spouse's bank accounts, while ₹4 lakh was received as a loan from a professional friend, who is a family to him. Additionally, a portion of the amount comprised the petitioner's mother's widow pension of ₹30,000 per month, which had been accumulated over a long period, along with gifts received from various relatives. It is further submitted that the petitioner's mother had entrusted him with these funds for medical and other emergency and family expenses. The amount was kept in the office, because several hospitals are situated in the vicinity, allowing for immediate access in case of emergencies.

6. Learned counsel for the petitioner further submits that the present petitioner is the rightful custodian of the money seized and for that the money should be accordingly released and given back to the petitioner. While contending this, the learned counsel places reliance on Section 451 read with Section 457 of Cr.P.C., 1973. For ready reference, the said provisions are reproduced as under: -



“451. Order for custody and disposal of property pending trial in certain cases.

When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation. - For the purposes of this section, "property" includes –

- (a) property of any kind or document which is produced before the Court or which is in its custody;*
- (b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.”*

“457. Procedure by police upon seizure of property.

(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.”



Further, he has relied upon the following passage from the judgment of Hon'ble Apex Court in ***Sunderbhai Ambalal Desai v. State of Gujarat***¹:

“5. Section 451 clearly empowers the court to pass appropriate orders with regard to such property, such as:

- (1) for the proper custody pending conclusion of the inquiry or trial;*
- (2) to order it to be sold or otherwise disposed of, after recording such evidence as it thinks necessary;*
- (3) if the property is subject to speedy and natural decay, to dispose of the same.*

7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely:

- 1. owner of the article would not suffer because of its remaining unused or by its misappropriation;*
- 2. court or the police would not be required to keep the article in safe custody;*
- 3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and*
- 4. this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.*

8. The question of proper custody of the seized article is raised in a number of matters. In Basavva Kom Dyamangouda Patil v. State of Mysore [(1977) 4 SCC 358 : 1977 SCC (Cri) 598] this Court dealt with a case where the seized articles were not available for being returned to the complainant. In that case, the recovered ornaments were kept in a trunk in the police station and later it was found missing, the question was with regard to

¹ (2002) 10 SCC 283



payment of those articles. In that context, the Court observed as under: (SCC p. 361, para 4)

“4. The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police it ought not to be retained in the custody of the court or of the police for any time longer than what is absolutely necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. It is manifest that there may be two stages when the property may be returned to the owner. In the first place it may be returned during any inquiry or trial. This may particularly be necessary where the property concerned is subject to speedy or natural decay. There may be other compelling reasons also which may justify the disposal of the property to the owner or otherwise in the interest of justice. The High Court and the Sessions Judge proceeded on the footing that one of the essential requirements of the Code is that the articles concerned must be produced before the court or should be in its custody. The object of the Code seems to be that any property which is in the control of the court either directly or indirectly should be disposed of by the court and a just and proper order should be passed by the court regarding its disposal. In a criminal case, the police always acts under the direct control of the court and has to take orders from it at every stage of an inquiry or trial. In this broad sense, therefore, the court exercises an overall control on the actions of the police officers in every case where it has taken cognizance.”

Learned counsel for the petitioner in addition to this also placed reliance on the judgement of the High Court of Delhi in the case of ***Manjit Singh v. State***²,

² 2014 SCC OnLine Del 4652



*“65. The currency notes seized by the police may be released to the person who, in the opinion of the Court, is lawfully entitled to claim after preparing detailed panchnama of the currency notes with their numbers or denomination; taking photographs of the currency notes; and taking a security bond.
66. The photographs of such currency notes should be attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over and memo of the proceedings be prepared which must be signed by the parties and witnesses.
67. The production of the currency notes during the course of the trial should not be insisted upon and the releasee should be permitted to use the currency.”*

Learned counsel relying on the aforesaid judgments contended that the petitioner is entitled to the release of the seized money as its rightful custodian. He submitted that the Hon'ble Supreme Court, in the case of ***Sunderbhai Ambalal Desai v. State of Gujarat*** (supra) has emphasized that property seized by the police should not be retained unnecessarily and must be released to the rightful owner at the earliest. He has further contended that under Sections 451 and 457 of Cr.P.C., 1973, the court has the power to order the return of seized property to its lawful owner, subject to appropriate safeguards.

Additionally, the learned counsel draws the court's attention to the judgment of the High Court of Delhi in the case of ***Manjit Singh v. State***



(supra) which lays down specific guidelines regarding the release of seized currency notes in the course of investigation and while pending trial. He argued that as per the principles enunciated in the said case, the seized amount may be returned to the petitioner after proper documentation, including a detailed panchnama, photographing of the currency notes, and obtaining a security bond.

7. However, on the contrary, Mr. Nayak, learned Special P.P. - Cum- Retainer Counsel(CBI) for the opposite party vehemently opposed the contentions of the petitioner's counsel and submitted that the afore-said judgements would only be applicable in the case when the person is lawfully entitled to such currency notes and relied on the order of the Trial Court which state that the seized amount was properly not accounted for by the accused-petitioner and the source of seized cash was not clear as to whether the same was legal or illegal.

8. In addition to this, Mr. Nayak, learned Special P.P. -Cum- Retainer Counsel(CBI) for the opposite party submitted that the present case against the accused petitioner was registered pursuant to the



Hon'ble Supreme Court's orders in WP(C) No. 401 of 2013 and WP(C) No. 413 of 2013, treating FIR No. 82 dated 14.05.2013 as the original FIR. During the investigation, it was revealed that investors had deposited money with M/s IRL through its agents under various illegal schemes, amassing approximately ₹565 crores in between 2009-2014, out of which ₹343 crores remained unpaid to investors.

The Hon'ble Supreme Court, in *Subrata Chattoraj v. Union of India*³, noted the involvement of influential persons and the need for further investigation into the money trail. In compliance, the CBI probed deeper into the larger conspiracy, regulatory lapses, and financial misappropriation.

The investigation revealed that the accused-petitioner, Lakshman Srinivasan, conspired with the Directors of M/s IRL and facilitated the formation of two Multi-State Credit Co-operative Societies, M/s Golden Society and M/s Pride Society, using fraudulent means to bypass

³ (2014) 8 SCC 768



regulatory scrutiny. The accused-petitioner received ₹4.15 crores from M/s IRL without any legal documentation, and misappropriated ₹3.93 crores for personal gain.

Additionally, the petitioner has been involved in multiple similar scams, amounting to crores of rupees misappropriated from the hard-earned money of the public. Furthermore, it is submitted that the investigation still remains open under Section 173(8) Cr.P.C., 1973. In the preliminary charge-sheet, it has conclusively established the petitioner's direct role in aiding and abetting the illegal deposit schemes. Therefore, it is submitted that the present application is devoid of merit and ought not to be entertained owing to the gravity and magnitude of economic offences caused by the petitioner.

9. I have carefully scrutinized the materials placed before this Court and the judgment cited by both the learned Counsel appearing for the parties. The larger picture emerging from the facts of the present case is that petitioner and others targeted the innocent citizens, exploited them and amassed huge wealth, sometimes resulting in cash currency



hounding. When application for release of said cash/currency of economic offences of such magnitude, the Courts become circumspective to release the amount. However, the release of money ensures that the seized currency remains in circulation, thereby aiding the national economy. If the money remains stagnant, it serves no practical purpose and fails to contribute to economic activity. Currency is meant to be in circulation to facilitate trade, commerce, and overall economic growth. Keeping large sums of money idle in custody neither benefits the State nor the affected individuals. Instead, it restricts liquidity in the financial system and prevents the owner from utilizing the funds for legitimate purposes.

10. In recent past when a question relating to the release of the currency note came before this Court in the case of *Santosh Kumar Tripathy Vs. State of Odisha*⁴, this Court in the disposal order held thus:

“4. Regard being had to the submissions made by the learned counsel and the facts of the present case, I am inclined to allow the petition. The trial court is directed to release the

⁴ CRLMC No. 2631 of 2023, High Court of Orissa, Cuttack



seized cash deposited by the I.O. in the court in favour of the petitioner by preserving color photographs of the currency notes. It is open for the trial court to impose any other condition as deemed fit and proper.”

Similar *modus* can be applied in the present case.

Furthermore, in ***Santosh Kumar Tripathy v. State of Odisha*** (supra), this Hon’ble Court recognized the importance of preserving the evidentiary value of seized cash through colour photographs while ensuring that the currency itself remains available for economic use. This principle aligns with broader economic considerations, where unnecessary stagnation of monetary resources can hinder financial fluidity. Releasing the seized cash with proper safeguards, such as the preparation of *Panchnamas* and photographic documentation, balances both the interests of justice and economic utility.

Thus, allowing the release of the seized currency under appropriate conditions would not only comply with legal precedents but also serve the larger public interest by ensuring that money continues to contribute to the economy rather than remaining unutilized in the custody.



11. In light of the above discussion and considering the judicial precedents, this Court is inclined to direct the release of the seized amount of ₹15.00 lakhs (Fifteen Lakhs) to the accused petitioner, subject to certain conditions that ensure both the integrity of the investigation and the smooth conclusion of trial.

It is well established that money, as a movable property, should not remain stagnant in judicial custody when it can be preserved through alternative means without prejudicing the prosecution's case. In the lights of the judgements cited, the release of seized cash should be considered while ensuring that its evidentiary value is duly preserved, which can be used for trial.

Accordingly, before releasing the amount, the following broad safeguards shall be ensured:

- I. Preparation of a Detailed Panchnama – A formal record (Panchnama) of the seized cash shall be prepared under the supervision of the trial court, documenting essential details such as



the total amount, denominations, serial numbers (where feasible), and other relevant particulars.

II. Preservation of Colour Photographs – High-resolution colour photographs of the seized currency shall be taken to ensure that its physical attributes are recorded for evidentiary purposes. These photographs shall be signed by the investigating officer, the accused petitioner, and two independent witnesses before being placed on record.

III. Security for the Released Amount – To balance the interests of justice and financial security, the petitioner shall be required to furnish a bank guarantee equivalent to 50% of the seized amount (i.e., ₹7.50 lakh) which shall remain valid until the conclusion of the trial. Additionally, the petitioner shall also secure the remaining 50% (i.e., ₹7.50 lakh) through the indemnification of any immovable property or other financial security, to the satisfaction of the trial court, as an assurance against potential liabilities arising from the case.



IV. Undertaking of Compliance – The petitioner shall submit an affidavit affirming that the released amount shall remain available for restitution if required by the court at a later stage, and that any misuse or misappropriation of the released amount shall lead to immediate legal consequences.

With these conditions in place, the Court finds no justifiable reason to retain the seized cash in judicial custody when its circulation could contribute to economic activity without compromising the investigation or trial proceedings.

Similar course of action may be taken in such cases arising out of the jurisdiction of this Court, keeping in mind the demand and need (which may vary) in different cases.

12. In addition to this, it is also desirable that not only regarding cash but also other materials which are seized such appropriate action must be taken by the authorities and courts below to do the needful and dispose of the items unless necessary to be in custody, which will



additionally save the resources of the state and will also aid in the well-being of the rightful owner.

By taking into consideration, the law laid down by the Hon'ble Supreme Court in *Sundarbhai* (supra) judgement and various other High Courts, this Court feels it expedient to cull out following principles regarding disposal of the seized article in form of broader guidelines, which may not be exhaustive but to some extent inclusive:

1. General Principles

1.1 Courts and investigating authorities must ensure that seized property is not retained indefinitely without valid legal justification. It is imperative to take steps for its prompt release or disposal unless required for an ongoing investigation or trial.

1.2 The disposal process should adhere to the provisions of Sections 451, 452, and 457 of the Criminal Procedure Code (Cr.P.C.) and be guided by established judicial precedents.

1.3 The primary objective should be to prevent unnecessary storage, avoid wastage of resources, and ensure that valuable assets retain their



utility keeping in mind the investigation and trial process is not compromised.

2. Handling of Seized Cash

2.1 In cases involving seized currency, courts may consider its release upon fulfilment of the following conditions:

- High-resolution colour photographs should be taken for permanent record-keeping.
- A detailed *panchnama* should be prepared and signed by the investigating officer, the claimant, and other relevant parties and/or witnesses.
- Appropriate conditions or security bonds should be imposed to ensure compliance.

2.2 If immediate release is not feasible, the cash must be deposited in a nationalized bank to prevent stagnation and contribute to the economy. Keeping cash in judicial or police custody for extended periods serves no practical purpose.



3. Releasing of Bank Deposits/ Fixed Deposits

3.1 Bank deposits and/or fixed deposits may be released against similar or varied amount of property securities or bank guarantee made by the accused petitioner, as per the direction of the competent authorities or court.

3.2 Such bank deposits/fixed deposits, shall not be released, in case when attachment and/or confiscation proceeding regarding the same assets have already been initiated. In such cases the release shall be decided by the competent court.

4. Disposal of Seized Vehicles

4. Vehicles that remain impounded in police stations deteriorate in value and become unfit for use. To prevent such depreciation, courts and authorities must ensure their early release by:

- Verifying ownership and allowing release to the rightful owner upon submission of a security bond and valid proof of ownership.



- Ensuring that any legal dispute concerning ownership are resolved efficiently through judicial orders.
- If a vehicle cannot be immediately returned, it should be stored in a secure facility instead of being left exposed to damage.
- If the rightful owner is untraceable or the vehicle is linked to a serious crime, the court may order its auction or disposal through appropriate channels after preserving appropriate records and photographs for the process of trial(in case linked to a crime) subjecting the provisions of law.

5. Management of Precious Articles (Gold, Jewellery, and Valuables)

5.1 Precious items such as gold, silver, and gemstones should not be kept in police custody for extended periods. Instead, they should be stored in proper lockers or bank lockers under court supervision.

5.2 If ownership is clear, the magistrate may order their release after verification, ensuring that:



- Photographic or video graphic evidence is recorded for reference.
- The claimant provides a bond ensuring return if required for trial.

5.3 If ownership is contested or the valuables are crucial evidence, they should be preserved under strict security protocols until the matter is resolved.

6. Disposal of Seized Liquor and Narcotic Substances

6.1 Alcoholic beverages and narcotic drugs must not be stockpiled unnecessarily. Authorities must ensure that:

- Necessary samples are collected and properly sealed for forensic analysis and trial purposes.
- The remaining quantity is destroyed promptly after obtaining court approval in accordance with law.

6.2 Large consignments of seized liquor should not be stored indefinitely in police stations, as this poses logistical and security challenges. Once samples are preserved for legal proceedings, the rest should be disposed of under proper supervision and in accordance with law.



6.3 In narcotics cases, forensic examination of samples should be conducted without delay, and the remaining substances should be disposed of as per the provisions of the Narcotic Drugs and Psychotropic Substances (NDPS) Act.

7. Perishable Goods and Agricultural Products

7.1 Perishable goods such as food and agricultural produce must be handled on a priority basis to prevent spoilage. Courts may consider:

- Immediate release to the rightful owner, if legally permissible.
- Auctioning or distribution through government agencies, in cases where the goods have no direct claimant.

7.2 If required for legal proceedings, only small representative samples should be retained, and the rest should be disposed of efficiently.

8. Firearms, Explosives, and Dangerous Weapons

8.1 Firearms, ammunition, and explosives should be stored in designated armouries instead of police stations to ensure safety and security.



8.2 If the weapons are lawfully owned, they may be returned to the rightful owner after proper verification. However, if the arms are linked to criminal activities or pose a public threat, courts may order destruction or forfeiture to the State.

8.3 Any delay in processing these items may pose safety hazards; therefore, courts should prioritize their disposal.

9. Electronic Devices and Digital Evidence

9.1 Seized electronic devices, including mobile phones, laptops, hard drives, other storage devices, surveillance footage and other such digital evidences, must be handled with care to prevent tampering.

Authorities should:

- Create forensic copies or digital images of the data using proper digital forensic tools so that the integrity of the digital evidences is not lost, before returning the device.
- A proper chain of custody must be maintained on record to ensure authenticity.

9.2 If the device is not crucial to the case, it should be released to the owner without unnecessary delay. However, if it at all is a key piece



of evidence and authenticity of the digital evidence can be challenged at a later stage then strict storage protocols must be followed for storing the evidence.

10. Disposal of Miscellaneous Seized Property

10.1 Items that do not fall under specific categories should be assessed based on their legal relevance and economic value.

10.2 If an item is no longer required for investigation or trial, it should be:

- Returned to its rightful owner, if identifiable.
- Auctioned or disposed of, if no claimant comes forward within a reasonable time.

10.3 Courts should introduce a time-bound review mechanism to prevent unnecessary accumulation of seized goods.

11. Role of the Courts and Investigating Authorities

11.1 Magistrates should take proactive measures to ensure that seized property is not retained for an extended period without justification.



Court directives for the return or disposal of property should be issued without undue delay.

11.2 Investigating officers must regularly report on seized property and seek judicial orders for its appropriate handling.

11.3 A system of periodic review and compliance checks should be established to prevent excessive backlog and mismanagement of seized assets.

By implementing aforementioned structured guidelines, courts and law enforcement agencies can ensure that seized property is managed in a manner that is efficient, legally sound, and beneficial to both the justice system and society at large.

The Registry of this Court is advised to transmit a copy of this judgment to all District Courts, Special Courts, and other subordinate courts. Additionally, copies may also be forwarded to the Director General of Police, Odisha Police Headquarters, and all other law enforcement agencies, including the State Vigilance Directorate, Excise



Department, Forest Department, and other investigating agencies, for the purpose of guidance.

13. With the above observations and directions the CRLREV is allowed, subject to compliance with the conditions as stipulated above.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
Dated the 10th of April, 2025/ Swarna

Signature Not Verified

Digitally Signed
Signed by: SWARNAPRAVA DASH
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 12-Apr-2025 15:38:28

