

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.2147 of 2022

Sandha @ Biswanath ***Petitioner***
Nayak

Mr.D. Nayak, Advocate

-versus-

State of Odisha ***Opp. Party***

Mr.S.S. Pradhan

Addl. Government Advocate

CORAM:
JUSTICE S.K. SAHOO

ORDER
16.03.2022

Order No.

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

Heard the learned counsel for the petitioner and learned counsel for the State.

This is an application under section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in connection with G.R. Case No.681-A of 1998 pending in the Court of learned J.M.F.C. (City), Cuttack for the commission of the alleged offences punishable under sections 279, 337, 338, 307, 34 of the Indian Penal Code and section 179 of M.V. Act and 47 of the Bihar and Odisha Excise Act.

Learned counsel for the petitioner submitted that the petitioner is an accused in G.R. Case No.681-A of 1998 under sections 279, 337, 338, 307/34 of the Indian Penal Code which was pending in the Court of learned S.D.J.M.

(Sadar), Cuttack and thereafter it was transferred to the Court of learned J.M.F.C., (City), Cuttack. It is further submitted that the warrant of arrest was issued by the learned S.D.J.M. (S), Cuttack and the petitioner was arrested and he was produced before the learned Sub-Divisional Magistrate, Bhadrak and after his bail application was rejected, he moved the learned Sessions Judge, Bhadrak in Bail Application No.115 of 2022 for transit bail, which was allowed as per order dated 15.02.2022 and the petitioner was granted interim bail for a period of fifteen days and he was directed to surrender before the learned S.D.J.M. (S), Cuttack and move for regular bail. It is the contention of the learned counsel for the petitioner that when the petitioner came to know that the case record has been transferred from the Court of learned S.D.J.M. (Sadar), Cuttack to J.M.F.C. (City), Cuttack, on 24.02.2022 he filed the surrender memo in the said Court in order to move for regular bail but since the original case record could not be traced out, the order passed by the learned Sessions Judge, Bhadrak in Bail Application No.115 of 2022 as per the order dated 15.02.2022 could not be complied with and therefore, the petitioner was compelled to file a 'Not Pressed' memo to that memo of surrender.

Considering the submissions made by the learned counsel for the respective parties, the averments taken in the anticipatory bail application, while not inclining to grant anticipatory bail to the petitioner, it is ordered that in the event the petitioner surrenders before the learned J.M.F.C (city), Cuttack in connection with G.R. Case

No.681-A/98 from the file of learned S.D.J.M. (Sadar), Cuttack, the original case records shall be made available so that the petitioner can move an application for regular bail in terms of the aforesaid order passed by the learned Sessions Judge, Bhadrak.

Learned counsel for the petitioner shall serve a copy of the order to the Public Prosecutor/APP of the said Court in advance so also file a copy of this order before the learned J.M.F.C (City), Cuttack in advance with an affidavit indicating his intention to surrender in the said Court on 28.03.2022 so that original case record can be traced out and kept ready to implement the order passed by this Court today.

In the event the bail application is rejected by the learned J.M.F.C.(City), Cuttack, the petitioner is at liberty to approach the higher forum, in which event, the same shall be disposed of in accordance with law expeditiously. The case records shall be made available to the Courts concerned for disposal of the bail application.

The ABLAPL stands disposed of.

Urgent certified copy of this order be granted on proper application.

(S.K. Sahoo)
Judge