

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12486 of 2022

Jaya @ Jay Prasad

....

Petitioner

Ms. Sailabala Jena, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mr. Amitabh Pradhan, learned counsel
for the Railway Department.*

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.10.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the petitioner and learned counsel for the railway department.

3. This is an application under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in connection with G.R. Case No.542 of 2020 arising out of Rayagada GRP Case No.11 of 2020 pending in the Court of learned S.D.J.M., Rayagada for alleged commission of offences under Sections 150 and 151 of the Railway Act, 1989, I.P.C.

4. It is submitted by learned counsel for the petitioner that in course of departmental inquiry, the petitioner was placed under suspension. It is further submitted that the petitioner preferred appeal against the D.P. and the appellate authority upheld the order of the Disciplinary Authority, which was again carried in Revision to the Revisional authority and the punishment has been modified by the Revisional authority. Thus, the order of suspension was revoked and

the petitioner was reinstated in service. It is submitted by learned counsel for the petitioner that although previous bail application was rejected by this Court. Now, there is a change in circumstance, the petitioner has been reinstated in service and order imposing punishment has been modified. The bail application of the petitioner may be considered favourably.

5. Considering the facts of the case, this Court is not inclined to grant anticipatory bail to the petitioner.

6. However, on the submission of the learned counsel, the petitioner is given liberty to surrender before the learned S.D.J.M., Rayagada in the aforesaid case in the first hour within 21 working days hence and move for bail. On such event, the learned Magistrate shall consider his application for bail in the first hour strictly on the basis of the materials on record. In case of rejection of the bail application, the petitioner may move for bail before the higher forum in the second hour. On such event, the higher forum shall consider and dispose of the bail application of the petitioner on the same day strictly on the basis of the materials on record by maintaining the principles of parity, if applicable.

7. Case Diary be made available to the concerned courts. Records be transmitted to the higher forum at the cost of the petitioner, if applied for.

8. The ABLAPL is accordingly disposed of.

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

(A.K. Mohapatra)
Judge

