

(2001) 10 OHC CK 0004

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 7099 of 2001

Disco alias Jiban Manna

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 05-10-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439

Citation : (2002) CriLJ 1062 : (2001) 2 OLR 723

Hon'ble Judges : P.K. Tripathy, J

Bench : Single Bench

Advocate : R. Panda, M.K. Pathy, B.D. Panda, D. Mohapatra, for the Appellant;
Additional Government Advocate, for the Respondent

Judgement

P.K. Tripathy, J.—Learned counsel for the petitioner and learned Addl. Govt. Advocate are ready. The case records of Criminal Misc. Case No. 5323 of 1998 and 3746 of 2001, two disposed of cases, are placed for perusal.

2. It is seen from those records that in Criminal Misc. Case No. 5323 of 1998 though the petitioner applied for bail u/s 439, Cr.P.C. on 1.12.1998 but on 19.3.1999 that bail application was dismissed as not pressed as per the order passed by Hon''ble Shri P. K. Mohanty, J. Similarly, bail application u/s 439. Cr.P.C. vide Criminal Misc. Case No. 3746 of 2001 was filed by the petitioner on 4.5.2001 and after obtaining several adjournments, on 23.8.2001 that bail application was disposed of as withdrawn as per the order passed by Hon''ble Shri C. R. Pal, J. Four days thereafter i.e., on 27.8.2001 the present bail application was filed by the self-same petitioner praying for bail in the self-same case pending before the Special Judge, Balasore. In the bail application petitioner has not explained as to why the previous bail applications, as above, were not pressed and withdrawn. Therefore on 3.9.2001 this Court directed the petitioner to explain the circumstance. Petitioner has not explained the reason. Learned counsel for the petitioner is also unable to state the reason for which the previous bail applications were not pressed and withdrawn. From the aforesaid

conduct of the petitioner, there is a reason for this Court to make an inference that perhaps petitioner is in the pursuit of choosing and selecting Benches for moving the bail applications. Such a conduct by a litigant is neither appreciable nor to be encouraged. In that respect, a litigant should not be allowed to avoid a forum by not pressing or withdrawing a case and thereafter renewing the prayer and getting it listed before any other Bench. In such type of cases the subsequent or successive applications filed by such applicant, should be placed for consideration before the Bench in which the earlier application was disposed of, may be as not pressed or withdrawn unless for any reason Hon"ble the Chief Justice orders to list such case in any other Bench. In that respect Hon"ble the Chief Justice need not explain any reason nor his Lordship is to pass a speaking order. But record should indicate that his Lordship was appraised about the mode of disposal of the previous bail application by any particular Bench. Thus in such type of cases it is not only the responsibility but also the duty of the Deputy Registrar (Judicial) to bring to the notice of Hon"ble the Chief Justice such facts and circumstances when the certificate granted on the bail application clearly states about the previous applications being moved and disposed of. This is a case of that nature. Therefore, the Deputy Registrar (Judicial), as it is seen has failed in his duty to apprise the Hon"ble the Acting Chief Justice about the two previous bail applications being disposed of by two single Benches of this Court and got listed this case in this Bench. The Deputy Registrar is cautioned to guard against such type of lapses in future.

3. For the reason indicated above, the Deputy Registrar (J) is directed to place the matter before Hon"ble the Acting Chief Justice and to list this case before appropriate Bench as per the order of this Lordship.