PRL. DISTRICT COURT : WEST GODAVARI : ELURU : DT. 19.02.2024

Communicated the copy of Judgment Dt.19.01.2024 of the Hon'ble Supreme Court of India passed in Criminal Appeal No.303 of 2024, forwarded by the Hon'ble High Court in ROC No.58/SO/2024, Dt.08.02.2024, to all the Judicial Officers working in the Unit of West Godavari District.

C. Ramakrishna

PRL. DISTRICT JUDGE,
W.G., ELURU.

Copy to:

1. All the Judicial Officers working in the Unit of West Godavari, for information.
2. All the Bar Associations in the Unit of West Godavari.
3. The Incharge System Officer (eCourts project), Principal District Court, Eluru, with a direction to place the same in District Court's website and send **emails** to all the Officers.

DIS NO. 1099
DATE 19/2/2024

Dr. Y. LAKSHMANA RAO
REGISTRAR GENERAL

AMARAVATI
(Off) : 0863 2372613
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R 2513
17/2/24

ROC No.58/SO/2024 **Dated 08.02.2024**

17 FEB 2024

To
All the Unit Heads in the State of Andhra Pradesh.

Sir/Madam,

Sub: High Court of Andhra Pradesh – Copy of Judgment dated 19.01.2024 of the Hon'ble Supreme Court of India passed in Criminal Appeal No.303 of 2024 – Forwarded – Reg.

Ref: Judgment dated 19.01.2024 of the Hon'ble Supreme Court of India passed in Criminal Appeal No.303 of 2024.

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Adverting to the subject and reference cited, as directed, I am to forward herewith copy of Judgment dated 19.01.2024 of the Hon'ble Supreme Court of India passed in Criminal Appeal No.303 of 2024, for information and necessary action.

Further, I also request you communicate the same to all the Officers in your Unit; the Presiding Officers of Labour Courts/Tribunals in the District working under the control of the High Court and also to the Presidents of all Bar Associations functioning in your respective jurisdiction, for information and strict compliance.

Yours sincerely,
Y. Lakshmana Rao
08/2/2024
REGISTRAR GENERAL

REPORTABLE

Certified to be true copy
Assistant Registrar (Judl.)
..... 21.1.2024.20
Supreme Court of India

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 303 OF 2024
(ARISING OUT OF S.L.P. (CRL.) NO. 12301 OF 2023)

KUSHA DURUKA ... **Appellant(s)**

VERSUS

245974

THE STATE OF ODISHA ... **Respondent(s)**

JUDGMENT

RAJESH BINDAL, J.

Leave granted.

2. This is another case in which an effort has been made to pollute the stream of administration of justice.

3. About three decades ago, this Court in **Chandra Shashi v. Anil Kumar Verma**[1] was faced with a situation where an attempt was made to deceive the Court and interfere with the administration of justice. The litigant was held to be guilty of contempt of court. It was

[1] (1995) 1 SCC 421

a case in which husband had filed fabricated document to oppose the prayer of his wife seeking transfer of matrimonial proceedings. Finding him guilty of contempt of court, he was sentenced to two weeks' imprisonment by this Court. This Court observed as under:

> "1. The stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned.
>
> 2. Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.
>
> * * *
>
> 14. The legal position thus is that if the publication be with intent to deceive the court or one made with an intention to defraud, the same would be contempt, as it would interfere with administration of justice. It would,in any case, tend to interfere with the same. This would definitely be so if a fabricated

documents is filed with the aforesaid *mens rea*. In the case at hand the fabricated document was apparently to deceive the court; the intention to defraud is writ large. Anil Kumar is, therefore, guilty of contempt."

4. In **K.D. Sharma Vs. Steel Authority of India Limited and others**[2] it was observed by this Court:

> "**39.** If the primary object as highlighted in **Kensington Income Tax Commrs., (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)** is kept in mind, an applicant who does not come with candid facts and "clean breast" cannot hold a writ of the court with "soiled hands". Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court." *[emphasis supplied]*

[2] (2008) 12 SCC 481

5. In **Dalip Singh v. State of Uttar Pradesh and others**[3], this Court noticed the progressive decline in the values of life and the conduct of the new creed of litigants, who are far away from truth. It was observed as under:

> "1. For many centuries Indian society cherished two basic values of life i.e."satya" (truth) and "ahinsa" (non- violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice- delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.
>
> 2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to

[3] (2010) 2 SCC 114

falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

(emphasis supplied)

6. In **Moti Lal Songara Vs. Prem Prakash @ Pappu and another**[4], this Court, considering the issue regarding concealment of facts before the Court, observed that "court is not a laboratory where children come to play", and opined as under:

> "**19.** The second limb of the submission is whether in the obtaining factual matrix, the order passed by the High Court discharging the accused-respondent is justified in law. We have clearly stated that though the respondent was fully aware about the fact that charges had been framed against him by the learned trial Judge, yet he did not bring the same to the notice of the revisional court hearing the revision against the order taking cognizance. It is a clear case of suppression. It was within the special knowledge of the accused. Any one who takes recourse to method of suppression in a court of law, is, in actuality, playing fraud with the court, and

[4] (2013) 9 SCC 199

the maxim supressio veri, expression faisi , i.e., suppression of the truth is equivalent to the expression of falsehood, gets attracted. We are compelled to say so as there has been a calculated concealment of the fact before the revisional court. It can be stated with certitude that the accused- respondent tried togain advantage by such factual suppression. The fraudulent intention is writ large. In fact, he has shown his courage of ignorance and tried to playpossum.

20. The High Court, as we have seen, applied the principle "when infrastructure collapses, the superstructure is bound to collapse". However, as the order has been obtained by practising fraud and suppressing material fact before a court of law to gain advantage, the said order cannot be allowed to stand."

(emphasis supplied)

7. It was held in the judgments referred to above that one of the two cherished basic values by Indian society for centuries is "satya" (truth) and the same has been put under the carpet by the petitioner. Truth constituted an integral part of the justice-delivery system in the pre-Independence era, however, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has

become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In the last 40 years, the values have gone down and now a litigants can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet the challenges posed by this new breed of litigants. Now it is well settled that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the court of law, is actually playing fraud with the court. The maxim supressio veri, expression faisi, i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. Its nothing but degradation of moral values in the society, may be because of our education system. Now we are more happy to hear anything except truth; read anything except truth; speak anything except truth and believe anything except truth. Someone rightly said that 'Lies are very sweet, while truth is bitter, that's why most people prefer telling lies.'

8. In a recent matter, this Court again came across a litigant who had tried to overreach the Court by concealing material facts in **Saumya Chaurasia v. Directorate of Enforcement**[5]. It was a case where the appellant before this Court had challenged the order passed by the High Court[6] rejecting his bail application. He was accused of committing various crimes under the Indian Penal Code and the Prevention of Money Laundering Act, 2002. His bail application was rejected by the High Court on 23.06.2023. In the pleadings before this Court, it was mentioned that the High Court had committed gross error in not considering the chargesheet dated 08.06.2023 and the cognizance order dated 16.06.2023, which clearly suggested that there was error apparent on the fact of it. The fact which was available on record was that an order in the bail application was reserved by the High Court on 17.04.2023 and pronounced on 23.06.2023. Having some suspicion, this Court directed the appellant to file an affidavit to clarify the aforesaid position. There was no specific reply given to the aforesaid query to the Court. Rather vague statements were made. Considering the facts available, this Court observed that there was a bold attempt by and on behalf of the appellant therein to misrepresent the facts for challenging the order

[5] 2023 INSC 1073

[6] High Court of Chhattisgarh at Bilaspur in Miscellaneous Crl. Case No.1258/2023

impugned therein, regarding the conduct of the parties and the counsel, this Court made the following observations:

> "14. It cannot be gainsaid that every party approaching the court seeking justice is expected to make full and correct disclosure of material facts and that every advocate being an officer of the court, though appearing for a particular party, is expected to assist the court fairly in carrying out its function to administer the justice. It hardly needs to be emphasized that a very high standard of professionalism and legal acumen is expected from the advocates particularly designated Senior advocates appearing in the highest court of the country so that their professionalism may be followed and emulated by the advocates practicing in the High Courts and the District Courts. Though it is true that the advocates would settle the pleadings and argue in the courts on instructions given by their clients, however their duty to diligently verify the facts from the record of the case, using their legal acumen for which they are engaged, cannot be obliviated."
>
> *(emphasis supplied)*

8.1. Finally, this Court dismissed the appeal with costs of ₹1,00,000/-.

9. In **Pradip Sahu v. The State of Assam**[7] the accused who was found to be guilty of concealing material facts from the court and against him the High Court[8] had directed for taking appropriate legal action, had challenged the order passed by the High Court before this Court. In the aforesaid case, first bail application filed by the appellant there was dismissed by the High Court[9], thereafter he moved second bail application before the High Court in which notice was issued on 30.11.2021. During the pendency of the aforesaid application before the High Court, the appellant therein moved fresh bail application before the Trial Court on 01.12.2021, which was granted on the same day. The aforesaid facts came to the notice of the High Court on 08.12.2021 when a report of the Registrar (Judicial) was received, who was directed to conduct the enquiry in the matter. However, on an apology tendered by the appellant therein and also considering the facts as stated that he belonged to Tea Tribe community and his brother, a cycle mechanic, who was also pursuing the case, did not appreciate the intricacy of the law. As a result of which, the mistake occurred. This Court, having regard to the unqualified apology

[7] Special Leave Petition (Criminal) No. 4876 of 2022, decided by this Court on 24.08.2023
[8] Gauhati High Court
[9] On 11.11.2021

tendered by the appellant therein, had set aside the order passed by the High Court to file FIR/complaint against the appellant therein.

10. May be in the facts of the aforesaid case, this Court had accepted unconditional apology tendered by the appellant therein and the given facts situation accepted his apology but it is established that there is a consistent effort by the litigants to misrepresent the Court wherever they can.

11. The prayer in the present appeal is for grant of bail pending trial. The appellant claimed that he is in custody since 03.02.2022 in connection with crime[10] registered under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985. The allegation in the FIR is that the appellant and the co-accused Gangesh Kumar Thakur @ Gangesh Thakur were in exclusive and conscious possession of 23.8 kg *Ganja* and were transporting the same.

12. The appellant and his co-accused Gangesh Kumar Thakur @ Gangesh Thakur filed an application for release on bail pending trial before the Sessions Judge-cum-Special Judge, Malkangiri immediately after their arrest on 03.02.2022. The same was rejected

[10] FIR No. 29 dated 03.02.2022, at P.S. Orkel, District Malkaganj, Odisha

vide order dated 04.02.2022. At that stage even the chargesheet had not been filed.

12.1 Being aggrieved against the order of rejection of the bail application by the Sessions Judge, the appellant filed first bail application[11] before High Court. While the same was pending the co-accused Gangesh Thakur also filed bail application[12] before the High Court. The High Court vide order dated 17.01.2023 allowed the bail application filed by Gangesh Kumar Thakur @ Gangesh Thakur. However, the bail application filed by the appellant was dismissed vide impugned order dated 06.03.2023. Aggrieved against the same, the appellant filed the SLP[13] before this Court. Notice in the same was issued on 22.09.2023. When the matter was listed on 08.11.2023, learned counsel for the State sought time to file counter affidavit. On 06.12.2023, the learned counsel for the appellant pointed out that during the pendency of the present matter before this Court, the High Court vide order dated 11.10.2023 had granted bail to the appellant. As he did not have hard copy of the order passed by the High Court, he placed before us a soft copy of the said order through his mobile phone. On a reading of the aforesaid order, this Court found that the

[11] BLAPL No. 1855 of 2022
[12] BLAPL NO. 11709 of 2022
[13] Special Leave Petition (Criminal) No. 12301 of 2023

same neither mentioned the fact that it was the second bail application[14] filed by the appellant nor pendency of the SLP before this Court, in which notice had already been issued. Taking the matter seriously and deprecating such a practice this Court passed the following order on 06.12.2023:

> "This petition has been filed assailing the correctness of order dated 6th March, 2023 passed by the High Court of Orissa at Cuttack in BLAPL No. 1855 of 2022, 'Kusha Duruka Versus State of Odisha' whereby the prayer for bail was rejected. Notice was issued by this Court on 22nd September, 2023.
>
> Today the learned counsel for the petitioner informs this Court that during the pendency of this petition, the High Court has granted bail to the petitioner on 11th October, 2023. He has placed before us a soft copy of the said order through his mobile, according to which BLAPL No. 10860 of 2023 was allowed apparently on the ground of parity extended to another co-accused.
>
> From reading of the said order, we find that it neither mentions that it was the second bail application filed by the petitioner before the High Court nor does it reflects any reference to the petition pending before this Court in which notice had already been issued in September, 2023.

[14] BLAPL No. 10860 of 2023

We seriously deprecate such practice by the litigant and the counsel.

We accordingly, direct that original record of the said bail application, allowed by the High Court on 11th October, 2023, be called for forthwith.

We further direct that this order be communicated to the Hon'ble Chief Justice as also the Registrar of the High Court of Orissa forthwith (today itself) and the aforementioned file of BLAPL No. 10860 of 2023 titled 'Kusha Duruka Versus Versus State of Odisha' be immediately sealed and thereafter be forwarded to this Court.

We also request the Hon'ble the Chief Justice to obtain comments of the learned Judge as to whether he was apprised of the aforesaid two facts as recorded earlier in this order regarding the bail application being the second bail application and the secondly the pendency of the present petition.

The State of Odisha will also file its comments as to whether the public prosecutor appearing for the State of Odisha pointed out such facts or not.

The report shall be submitted by the Secretary, Department of Law and Justice of the State of Odisha as also by the Joint Secretary or the Additional Secretary (Law) attached to the High Court.

List this matter again on 13th December, 2023."

13. In terms of the aforesaid order, this Court received the original record pertaining to second bail application filed by the appellant in which he was granted bail by the High Court vide order dated 11.10.2023; a report dated 08.12.2023 from the High Court along with a note from the Hon'ble Judge who had dealt with the bail application filed by the appellant and passed the order on 11.10.2023; affidavit of Special Secretary, Home Department, Government of Odisha dated 11.12.2023 and affidavit and report of Principal Secretary, Law Department, Government of Odisha dated 12.12.2023.

14. Before we deal with the matter, we deem it appropriate to note down the dates and events in a tabular form.

DATE	EVENTS
03.02.2022	FIR No.29 dated 03.02.2022 was registered at Police Station Orkel, District Malkangiri, Odisha, under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
03.02.2022	The appellant as well as co-accused were arrested.
04.02.2022	The first bail application filed by the appellant as well as the co-accused was rejected by the Sessions Judge-cum-Special Judge, Malkangiri (Special G.R. Case No.38/2022).

	The appellant approached the High Court for grant of bail by filing bail application bearing BLAPL No. 1855 of 2022.
	The co-accused Gangesh Kumar Thakur @ Gangesh Thakur approached the High Court for grant of bail by filing bail application bearing BLAPL No.11709 of 2022.
	As is evident from the records available before this Court, bail application filed by the appellant was assigned to Judge 'A'[15].
	During the pendency of the bail application filed by the appellant, the bail application filed by the co-accused Gangesh Kumar Thakur was listed before Judge 'B'[3].
17.01.2023	The bail application filed by the co-accused Gangesh Kumar Thakur @ Gangesh Thakur was allowed by Judge 'B'; The order does not suggest that the State Counsel had pointed before the court that there is another bail application filed by the co-accused (the appellant) pending consideration before the court.
06.03.2023	The bail application filed by the appellant was rejected by Judge 'A'; the High Court had specifically recorded in the order that the co-accused Gangesh Kumar Thakur @ Gangesh

[15] We are consciously not mentioning the name of the Hon'ble Judge

	Thakur had been released vide order dated 17.01.2023.
21.07.2023	Aggrieved against the order rejecting the bail application filed by the appellant, SLP was filed before this Court.
15.09.2023	During the pendency of the matter before this Court, second bail application filed by the appellant was rejected by the Sessions Judge-cum-Special Judge, Malkangiri. The argument raised by the appellant that the co-accused has already been granted the bail, is noticed in the order. It does not record the fact that a petition filed by the appellant seeking bail is pending before this Court.
21.09.2023	While the matter was pending before this Court, the appellant filed second bail application before the High Court and the same was not disclosed before this Court.
22.09.2023	Notice in the SLP was issued to the respondent.
11.10.2023	During pendency of the matter before this Court Judge 'B' granted bail to the appellant.
08.11.2023	Learned counsel for the State appeared and sought time for filing counter affidavit to the SLP. Though the High Court had already granted bail to the appellant but still it was not pointed out when the matter was taken up by this Court.
06.12.2023	Learned counsel for the appellant pointed out before this Court that the appellant had already

	been released by the High Court. This Court called for explanation and the record of the case from the High Court.

15. In the Affidavit dated 11.12.2023 filed by the Principal Secretary, Law Department, Govt. of Odisha, while narrating the facts of the case, it was stated that the learned counsel appearing for the State in the High Court did not have the knowledge of the fact that the first bail application filed by the appellant was rejected on 06.03.2023 by the High Court and also regarding filing of the SLP by the petitioner before this Court.

15.1 The contents of para of the aforesaid affidavit are extracted below:

> "It is submitted that the State Counsel before the Hon'ble High Court of Orissa was nót aware of the fact that, earlier BLAPL No.1855/2022 was rejected vide order dated 06.03.2023 as well as the fact of filing of S.L.P.(Crl.)No.12301/2023. A copy of report of the State Counsel is as ANNEXURE-A"

15.2 Along with the affidavit a report from the State Counsel was also annexed. It was mentioned therein that in second bail application though the appellant had disclosed about filing of his first bail

application, he had not disclosed any fact regarding pendency of the SLP before this Court. It was further mentioned that in the list of dates the factum of rejection of earlier bail application or filing of the SLP was not mentioned. Even at the time of hearing this fact was not disclosed. Learned State Counsel did not have any instructions from the Inspector Incharge regarding pendency of the present petition before this Court.

15.3 To similar effect is the affidavit filed by the Special Secretary, Home Department, Govt. of Odisha.

16. In compliance to the order dated 06.12.2023 passed by this Court, a report has been received from the High Court. The comments of Judge 'B', as requested, were annexed with the report and original file of second bail application of appellant was also received from the High Court. It is mentioned therein that at the time of hearing of the second bail application, the court was not apprised of the factum of pendency of the SLP before this Court, in which notice had already been issued on 22.09.2023.

16.1 A copy of Standing Order No.2 of 2023, in partial modification of earlier Standing Order No.1 of 2020 issued by the High Court on 21.05.2023, was annexed with the report. It was issued in pursuance to the observation made by this Court in **Pradhani Jani v.**

The State of Odisha[16]. The Standing Order was issued with reference to the listing of the bail applications under Sections 438 and 439 Cr.P.C. Para 2 of the Standing Order with reference to the bail applications under Section 439 Cr.P.C. is extracted below:

> "2. The subsequent bail applications under section 439 Cr.P.C. including applications for interim bail shall be listed before the Hon'ble Judge who, at the earliest, decided any of the earlier bail applications under section 439 Cr.P.C. arising out of the same FIR (decided on merit or disposed of as withdrawn/not pressed). In the event the Hon'ble Judge is not available on account of superannuation, transfer etc. or recuses, the said application shall be listed before the Hon'ble Judge who next disposed of any of those bail applications, and so on. If none of the Hon'ble Judges who decided the earlier bail applications is available, the application shall be listed before the regular Bench as per roster."

17. In substance, it was directed that the Stamp Reporting Section will verify in case any bail application arising out of the same FIR has been disposed of earlier. The Stamp Reporting Section shall furnish complete details. The subsequent bail applications are to be listed before the same Judge. However, in case of non-availability or

[16] Criminal Appeal No.1503/2023 decided on 15.05.2023

superannuation of the that Judge, alternate system has been provided. It is further directed that while listing the subsequent bail application, final order(s) of earlier bail application(s) arising out of the same FIR shall be tagged. To put the record straight, the order passed by this Court in **Pradhani Jani's** case (supra) is extracted hereinbelow:

> "3. The perusal of the paper books would reveal that various applications filed by various accused have been entertained by different learned Single Judges of the same High Court. In many of the High Courts, the practice followed is that the applications arising out of the same FIR should be placed before one Judge. However, it appears that it is not the practice in Orissa High Court. In the present case, we have come across orders passed by at least three different Judges in the applications of various accused arising out of same FIR.
>
> 4. Such a practice leads to anomalous situation. Certain accused are granted bail whereas certain accused for the very same crime having similar role are refused bail.
>
> 5. We, therefore, quash and set aside the impugned order dated 31.01.2023 and remand the matter back to the High Court. The High Court is requested to consider the effect of the orders passed by the other coordinate Benches and pass orders afresh.

The same shall be done within a period of one month from today.

6. The Registrar (Judicial) of the Registry of this Court is directed to forward a copy of this order to the Registrar General of the Orissa High Court, who is requested to take note of the aforesaid and consider passing appropriate order so that contrary orders in the same crime are avoided."

18. A perusal of the paper book in second bail application shows that there is a report annexed by the Registry in the matter. It mentioned about the earlier two bail applications filed in the FIR in-question. The first bail application filed by the appellant was disposed of on 06.03.2023. Bail application filed by the co-accused Gangesh Kumar Thakur was disposed of on 17.01.2023. The next one was the second bail application filed by the appellant. Though Standing Order No.2 of 2023 directed the Registry to annex all the orders passed in the earlier bail applications by different accused in the same FIR, however, the order passed by the High Court in the case of the appellant, rejecting his earlier bail application, does not form part of the bail application before the High Court. Only the order dated 17.01.2023 passed in the bail application, filed by the co-accused Gangesh Kumar Thakur was annexed. Further, in the list of dates and events, the appellant did not mention regarding disposal of his earlier

bail application by the High Court and also filing of the SLP in this Court. Though, just below the name of the parties, the appellant had mentioned the number of earlier bail application filed by him. Even in the body of the bail application, the appellant has conspicuously remained silent about the dismissal of his earlier bail application by the High Court and filing of the SLP before this Court. During the pendency of the matter before this court a fresh bail application was filed not only before the Trial Court but even before the High Court. The High Court even granted bail to the appellant. In the bail application filed before the High Court, it was not mentioned that the same was second bail application filed by the appellant. This Court cannot comment on the contents of the bail application filed before the Sessions Judge as the copy thereof is not available on record here.

19. It is further evident from the order dated 17.01.2023 vide which bail application, BLAPL NO.11709 of 2022 of the co-accused Gangesh Kumar Thakur was allowed by the High Court by Judge 'B'. Learned State Counsel did not point out the factum of pendency of another bail application filed by the co-accused arising out of the same FIR at that stage. The concerned investigating officer must be aware of this fact but had not pointed out the same before the court.

20. In our opinion, to avoid any confusion in future it would be appropriate to mandatorily mention in the application(s) filed for grant of bail:

(1) Details and copies of order(s) passed in the earlier bail application(s) filed by the petitioner which have been already decided.

(2) Details of any bail application(s) filed by the petitioner, which is pending either in any court, below the court in question or the higher court, and if none is pending, a clear statement to that effect has to be made.

This court has already directed vide order passed in **Pradhani Jani's** case (supra) that all bail applications filed by the different accused in the same FIR should be listed before the same Judge except in cases where the Judge has superannuated or has been transferred or otherwise incapacitated to hear the matter. The system needs to be followed meticulously to avoid any discrepancies in the orders.

In case it is mentioned on the top of the bail application or any other place which is clearly visible, that the application for bail is either first, second or third and so on, so that it is convenient for the court to appreciate the arguments in that light. If this fact is mentioned in the order, it will enable the next higher court to appreciate the arguments in that light.

(3) The registry of the court should also annex a report generated from the system about decided or

pending bail application(s) in the crime case in question. The same system needs to be followed even in the case of private complaints as all cases filed in the trial courts are assigned specific numbers (CNR No.), even if no FIR number is there.

(4) It should be the duty of the Investigating Officer/any officer assisting the State Counsel in court to apprise him of the order(s), if any, passed by the court with reference to different bail applications or other proceedings in the same crime case. And the counsel appearing for the parties have to conduct themselves truly like officers of the Court.

21. Our suggestions are with a view to streamline the proceedings and avoid anomalies with reference to the bail applications being filed in the cases pending trial and even for suspension of sentence.

22. Though considering the conduct of the petitioner, one of the option available was to cancel his bail, however, we do not propose to take such an extreme step in the case in hand. However, this can be the option exercised by the Court if the facts of the case so demand seeing the conduct of the parties.

23. The present appeal is, accordingly, dismissed as infructuous. However, still we deem it appropriate to burden the appellant with a token cost of ₹10,000/-, which shall be deposited by

him with Mediation and Conciliation Centre, attached to Orissa High Court, within a period of eight weeks from today. Within two weeks thereafter, proof of deposit be furnished in this Court.

24. A copy of the order be sent to the Registrars General of all the High Courts to be placed before the Chief Justices for correction of the system, wherever required, as this Court comes across similar issues from different High Courts.

25. The original record received from the High Court be sent back.

-Sd-

.J

(VIKRAM NATH)

-Sd-

.....J

(RAJESH BINDAL)

New Delhi
January 19, 2024.

