

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 12984 of 2023

**Suchismita
Mohanty**

....

Petitioner

Mr. S. Mohanty, Advocate

-Versus -

State of Odisha

....

Opposite Party

*Mr. S. Mishra,
Standing Counsel
(For GST)*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

18.12.2023

**Order No.
05.**

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is apprehending arrest in connection Spot Summons No. 1662 of CT & GST issued under Section 70 of the Odisha Goods and Services Tax Act, 2017.
4. From the copy of the summons enclosed to the anticipatory bail application, it is seen that the petitioner has been asked to appear before the Joint Commission of CT and GST Enforcement Range, Cuttack to give evidence truthfully on such matters concerning the enquiry and to produce documents on

record. The petitioner apprehends that she may be taken to custody in the event of her appearance as above.

5. Mr. Sunil Mishra, learned Standing Counsel for the GST matter submits that investigation is in progress and statutory notice has been issued directing the petitioner to appear and to give evidence by way of documents and oral statement regarding the alleged offences. The anticipatory bail application is therefore, premature. Mr. Mishra has also relied upon several decisions of the Supreme Court in this regard including the case of ***State of Gujarat vs. Choodamani Parmeshwaran Iyer*** [SLP (CrI.) No.4212-4213 of 2019 order dated July 17th, 2023] to submit that the power under Section 438 of Cr.P.C. cannot be invoked by a person summoned by the GST authorities under Section 70 of the GST Act.

6. After hearing learned counsel for the parties and on going through the materials on record including the copies of the summons issued as also the ratio of the cited case, this Court is of the view that the apprehension of the petitioner of being taken to custody on appearance does not appear to be reasonable. Moreover, as per the settled position of law referred hereinbefore, the application under Section 438 of Cr.P.C cannot be entertained at a stage when only a summon has been issued under Section 70 of the O.G.S.T. Act.

7. The ABLPAL is therefore, disposed of directing the petitioner to abide by the summons and to render full cooperation in the ongoing investigation.

(Sashikanta Mishra)
Judge

B.C. Tudu

