

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No. 1753 of 2012

Nihar Ranjan Tripathy

....

Petitioner

Mr. Suvashish Patnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. J. Katikia, Addl. Govt. Advocate

CORAM:
THE CHIEF JUSTICE

Order No.

ORDER
25.03.2022

03. 1. The Petitioner here has been declared as absconder by the impugned order dated 15th December, 2011 of the S.D.J.M., Bhubaneswar in G.R. Case No.2328/2009.
2. In the present case, it seems that the Petitioner obtained anticipatory bail by an order dated 23rd November, 2011. The application was in fact allowed by the said order stating that in the event of his arrest, the Petitioner shall be released on bail on furnishing a bail bond of Rs.5,000/- with one surety for the like amount to the satisfaction of the arresting officer. The offences in the ICC Case No. 1693 of 2009 registered at Kharvelanagar P.S. Case No.158 of 2009 corresponding to above G.R. Case was for the offences under Section 354/292/509/506/109 IPC.
3. However, it appears that the learned SDJM issued a non-bailable warrant (NBW) upon the non-appearance of the Petitioner. Even if the Petitioner had not appeared in the first instance only a bailable

warrant shall be issued and not a non-bailable warrant. In this context, reference may be made to the decision of the Supreme Court of India in *Inder Mohan Goswami v. State of Uttaranchal* AIR 2008 SC 2518.

4. Further, in view of the judgment of the learned Single Judge of this Court in *Santosh Kumar Maharana @ Dilip Maharana v. State of Orissa* 2014 (57) OCR 228, once an anticipatory bail application has been allowed, the question of straightaway treating the Petitioner as absconding would not arise. As ordered in that case, in this case also for identical reasons, the Court sets aside the impugned order and directs that the SDJM, Bhubaneswar will now proceed with the matter as if the Petitioner is not an absconder. However, the Petitioner will continue to appear in the case as and when required and fully cooperate in the matter.

5. The petition is disposed of in the above terms.

6. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice