

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.41 of 2022

Manoj Kumar Nayak

.... **Petitioner**
Mr. Anirudha Das, Advocate

-Versus-

State of Odisha

.... **Opposite Parties**
Mr. Sitikanta Mishra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
29.11.2022

Order No.

03.

1. Heard Mr. Das learned counsel for the petitioner and Mr. Mishra, learned counsel for the State-opposite party No.1.
2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioner for quashing of the impugned order of cognizance i.e. Anneuxre-2 and also the criminal proceeding in C.T. Case No. 28 of 2021 corresponding Phiringia P.S. Case No. 37 dated 27th March, 2021 registered under Section 20(b)(ii)(C)/25 & 29 of the NDPS Act on the grounds stated therein.
3. Perused the copy of the F.I.R. which is at Anneuxre-1.
4. Mr. Das, learned counsel for the petitioner submits that the petitioner is a school teacher and there is no direct evidence regarding his involvement but stands implicated on the strength of confessional statement of other accused persons from whom the recovery was made. It is further submitted that through the accused persons who stood implicated and whose complicity was shown on

the strength of confessional statements have been granted bail by this Court in BLAPL No.10306 & 10307 of 2021 by order dated 20th January, 2022 and under the above circumstances, the petitioner should be directed to surrender and released on bail, if the Court is not inclined to interfere with the impugned order i.e. Annexure-2 and also the criminal proceeding as has been prayed for.

5. Mr. Mishra, learned counsel for the State on the other hand submits that the petitioner is involved in the illicit transportation of commercial quantity of contraband Ganja as it was revealed by two other accused persons from whom the alleged recovery was made by the local police. It is claimed that such transportation was being carried out at the instruction of the petitioner as it was elicited after the recovery and seizure from other accused persons and hence, the impugned order under Annexure-2 is absolutely justified. In response to the request for release on bail post surrender, Mr. Mishra learned counsel for the State submits that the petitioner should be allowed to surrender and granted the liberty to move regular bail.

6. Considering the F.I.R. and the fact that there has been recovery of contraband substance of commercial quantity from two other accused persons, the Court is of the view that there is prima facie material to show the involvement and hence the learned court below rightly on the strength of it proceeded to take cognizance of offences and passed the impugned order under Annexure-2 and thus, it calls for no interference. In other words, there is no case made out for quashing of the criminal proceeding.

7. With regard to the limited prayer, the Court is of the view that the petitioner should be directed to surrender and apply for bail by claiming parity, as in the meantime, two other accused persons

claimed to be similarly situated along with the others from whom recovery and seizure was shown have been granted bail.

8. Accordingly, it is ordered.

9. In the result, the CRLMC stands disposed of with a direction to the petitioner to surrender before the court of learned District & Sessions Judge-cum-Special Judge, Kandhamal, Phulbani on or before 16th December, 2022 in C.T. Case No. 28 of 2021 corresponding Phiringia P.S. Case No. 37 of 2021 and in the event he surrenders and applies for bail, the court below shall pass orders thereon considering with plea of parity.

10. Urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

