

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.65 of 2022

1.Kamalakanta Sahoo
2. Mahadev Sahoo @ Subrat
Kumar

Petitioners

....
Mr.Jagannath Gochayat, Advocate on behalf of
Mr. Bijaya Kumar Ragada, Advocaes

Versus

State of Odisha

Opp. Party

....
Mr.S.S.Pradhan, AGA

CORAM:

JUSTICE SAVITRI RATHO

ORDER

11.02.2022

Order No.

02. 1. This matter is taken up through hybrid mode.
2. Mr. Jagannath Gochayat, learned counsel on behalf of Mr. Bijaya Kumar Ragada, learned counsel for the petitioners files xerox copies of the order dated 03.06.2015 passed in ABLAPL No. 5158 of 2015 in Court. The same be kept in the record.
3. In this application under Section 482 Cr.P.C. the order dated 12.10.2017 passed by the learned J.M.F.C., Aul in G.R. No. 120 of 2015 arising out of S.T. No. 311 of 2019 (Aul P.S. Case No. 66 of 2015) under Annexure-1 has been challenged wherein N.B.W. of arrest has been issued against the petitioners-Kamalakanta Sahoo and Mahadev Sahoo @ Subrat Kumar as they did not appear even though notice sent to them was held to be sufficient.

4. Mr. Jagannath Gochayat, learned counsel on behalf of Mr. Bijaya Kumar Ragada, learned counsel for the petitioners submits that pursuant to order passed in ABLAPL No. 5158 of 2015 dated 03.06.2015, the petitioners have been arrested by the Police and released on bail on 12.06.2015. After submission of charge sheet, summons has been issued to them for their appearance but summons have not been served on the petitioners for which the petitioners had no knowledge about service of summons and could not appear in the learned court below on 12.10.2017 for which N.B.W. of arrest has been issued against them. He further submits that if the impugned order is set aside and the NBW of arrest is recalled the petitioners shall appear on each date fixed for trial and will cooperate with the learned trial court for early disposal of the trial.

5. Perusal of the order dated 12.10.2017 indicates that S.R. of notice against the petitioner no.2-Mahadev Sahoo @ Subrat Kumar was back after service on his father and S.R. against petitioner no.1-Kamalakanta Sahoo returned unserved after refusal by his brother, which was held to be sufficient and N.B.W. of arrest has been issued against the petitioners fixing 21.11.2017 for their production.

6. As the summons had not been served personally on the petitioners and in order to secure the presence of the petitioners

during trial, it is directed that in the event each of the petitioners deposits an amount of Rs.1500/- (rupees fifteen hundred only) in the Welfare Fund of Orissa High Court Bar Association (total amount of Rs.3,000/-) and surrenders before the learned court below within a period of four weeks and moves an application for bail furnishing the receipt of payment of cost of Rs.1500/- each, they shall be released on bail on such terms and conditions as the learned court below may deem just and proper with the further condition that the petitioners shall appear before the learned trial court on each date when the case would be fixed for trial.

7. Violation of any of the terms and conditions fixed shall entail cancellation of bail.

8. The CRLMC is accordingly stands disposed of.

9. Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge

puspa