

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 229 of 2022

Jitendra Kumar Behera

....

Petitioner

Mr. Napoleon Sahani, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.S. Mohapatra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

19.10.2022

Order No.

05.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner challenging the order of cognizance dated 26th February, 2020 passed by the learned J.M.F.C., Ranpur in G.R. Case No.193 of 2014 arising out of Ranpur P.S. Case No.193 of 2014 on the grounds stated therein.
3. Perused the copy of the FIR at Annexure-1 and copy of the order of cognizance as at Annexure-2.
4. In fact, the FIR was lodged by the local police, consequent upon which, Ranpur P.S. Case No.193 of 2014 was registered under Section 307 IPC along with other allied offences besides Section 7 of Criminal Law Amendment Act and Sections 3 & 4 of Explosive Substances Act and Section 4 of PDPP Act.
5. Learned counsel for the petitioner submits that the incident happened in the year 2014. It is submitted by learned counsel for the petitioner that the name of the petitioner was mentioned in the FIR but at the relevant point of time, he was not present at the spot

and did not participate in the movement, however, he received a bullet injury and was hospitalized for a period of fortnight and after completion of investigation, the police filed chargesheet. Lastly it is submitted that after submission of chargesheet the Court below issued NBWA against the petitioner, which is pending for execution. It is contended that considering the situation under which the alleged incident had happened which was in his presence, he could not have been chargesheeted, therefore, the criminal proceeding should be quashed.

6. The Court finds that the ground on which the order of cognizance is challenged is purely factual and at this stage it cannot be appreciated for the purpose of quashing the criminal proceeding. However having regard to the submission made that the court below issued NBWA against the petitioner and the same is pending execution, the Court is of the view that petitioner should be directed to surrender and allowed to go on bail. In other words, the Court although not inclined to interfere with the order as no such ground is made out, this Court however directs that the petitioner to surrender before the learned court below on or before 4th November, 2022 in G.R. Case No.193 of 2014 arising out of Ranpur P.S. Case No.193 of 2014 and in such event he shall be released on bail subject to conditions as would be deemed just and proper in the facts and circumstances of the case.

7. CRLMC stands disposed of.

8. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge