

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.53 of 2022

Ashok Kumar Agarwal

..... Petitioner
Mr. Aditya Mishra, Advocate

-versus-

State of Odisha

..... Opposite Party
Mr. K.K. Nayak, ASC for State

CORAM:
JUSTICE A.K. MOHAPATRA

ORDER
21.02.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State. Perused the case records.
3. This criminal revision application has been filed by the Petitioner challenging the order dated 27.12.2021, passed by the learned Judicial Magistrate First Class, Barbil in G.R. Case No.333 of 2005 under Annexure-9, whereby the application of the Petitioner under Section 205 Cr.P.C. for dispensing with personal appearance of the Petitioner in the court below has been rejected. It is further submitted that in the meantime Non-Bailable Warrant of Arrest has been issued against the Petitioner.
4. Learned counsel for the Petitioner further submits that earlier he had approached this Court in ABLAPL No.11873 of 2011, which was not entertained by this Court and such application was rejected by order dated 05.10.2021. Thereafter, the Petitioner approached this

Court by filing CRLMC No.2276 of 2021, the said application was also disposed of by this Court vide order dated 24.11.2021 granting liberty to the Petitioner to surrender before the court below and move for bail and further in the event the Petitioner surrenders and files a bail application, the same shall be considered on its own merits having due regard to the principle of parity. Learned counsel for the Petitioner further submits that the Petitioner was not properly advised to surrender before the learned court below pursuant to order dated 24.11.2021. He has filed an application u/s.205 Cr.P.C. to dispense with his personal appearance before the court below. In such view of the matter, learned counsel for the Petitioner seeks to surrender before the court below pursuant to order dated 24.11.2021 and take advantage of that order.

5. Learned counsel for the State has no objection if the Petitioner shall surrender before the court below pursuant to order dated 24.11.2021 by filing an application for bail, in such event, the court in seisin of the matter shall consider the same on its own merit and in accordance with law, strictly in terms of the order passed by this Court by its order dated 24.11.2021 in CRLMC No.2276 of 2021.

6. Considering the submissions made, this Court disposes of the criminal revision application without disturbing the impugned order. In the event Petitioner surrenders before the court below and moves for bail, the said application of the Petitioner shall be considered strictly in accordance with law as per the order dated 24.11.2021 passed by this Court in CRLMC No.2276 of 2021.

7. With the aforesaid observation, the writ petition stands disposed of.
8. Writ Petition is accordingly disposed of.
9. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge

U.K.Sahoo

