

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.492 of 2022

Anup Raj Nayak

....

Petitioner

Mr. Priya Ranjan Singh, Advocate

-versus-

State of Orissa

....

Opp. Party

Mr. K.K. Das, Additional Standing Counsel

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

14.3.2022

Order No.

02. 1. Heard Mr. P.R. Singh, learned counsel for the Petitioner and Mr. K.K. Das, learned Additional Standing Counsel.
2. In the present application order dated 18th May, 2021 of learned Sessions Judge-cum-Special Judge, Kendrapara issuing NBW has been challenged.
3. Perusal of record reveals that by order dated 7th July, 2021 the learned Special Judge, Kendrapara has remitted the case record to the court of learned J.M.F.C., Pattamundai since no offence under SC and ST (PoA) Act was made out and the charge-sheet was submitted in respect of offences under Sections 420/294/506/34 of I.P.C. only.
4. It is submitted by Mr. Singh that after the case record was remitted to the court of J.M.F.C., Pattamundai, the order dated 18th May, 2021 directing issuance of NBW against the Petitioner by the learned Sessions Judge-cum-Special Judge, Kendrapara became

without authority since the case is no more with the Special judge. I fail to agree with said submission. It is for the reason that when the case has been remitted back to the Magistrate as no offence under SC and ST (PoA) Act was made out, the previous order directing issuance of NBW has to be assumed as an order issued by the Magistrate and the Petitioner has all liberty to approach the Magistrate in that regard. As such I do not find any merit in the present application.

5. Here the petitioner seeks permission to surrender before learned J.M.F.C. and move for bail. The Petitioner is at liberty to surrender before the court of learned J.M.F.C., Pattamundai to seek for bail in accordance with law. In case the Petitioner appears before the learned J.M.F.C., Pattamundai and applies for bail, the same shall be considered in accordance with law including the ground of parity, if any applicable.

6. The CRLMC is accordingly disposed of.

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

(B.P. Routray)
Judge