

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.509 of 2022

Gudu Digal

Petitioner

Ms. A. Sahoo, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

30.11.2022

Order
No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the opposite party State.

2. Present challenge is to the order of cognizance dated 9th September, 2020 passed by the learned Additional District and Sessions Judge, Balliguda on the ground that the petitioner is not involved in the alleged transportation of contraband substance and as such, the offence is not prima facie made out against him.

3. A copy of the FIR which is at Annexure-1 is perused by the Court.

4. The petitioner and other accused persons have been chargesheeted, whereupon, the learned court below took cognizance of the offences under Sections 20(b)(ii)C and 29 of the NDPS Act and thereafter, issued NBWA against the petitioner which is pending execution.

5. The Court perused the FIR and its contents.

6. Learned counsel for the petitioner submits that the petitioner is the driver of the vehicle which was intercepted at the spot but the alleged recovery was shown from another accused and

therefore, he is not involved in the illicit of transportation of contraband Ganja, however, he was chargesheeted by the local police which is unjust and thus to be interfered with. Mr. Praharaj, learned counsel for the State on the other hand submits that the petitioner was the driver and when the vehicle was intercepted, he fled from the spot and thereafter, alleged recovery was made.

7. Considering the FIR, the Court finds that prima facie materials to show that at the relevant point of time, the petitioner was the driver of the vehicle in question which was detained by the local police and thereafter, the recovery of Ganja was made and seized. Hence, no case is made out for any inference with regard to the impugned order under Annexure-2.

8. At this juncture, learned counsel for the petitioner submits that the petitioner should be directed to surrender before the learned court below and apply for bail.

9. Considering the above facts and submission for the petitioner, CRLMC stands disposed of with a direction to the petitioner to surrender before the learned court below in connection with C.T. Case No.101 of 2019 pending in the file of learned Additional District and Sessions Judge, Balliguda on or before 20th December, 2022 and in the event, he surrenders within the stipulated time and applies for bail pleading parity, the same shall be considered by the court below and orders to be passed thereon as per and in accordance with law.

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

(R.K. Pattanaik)
Judge