

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.371 of 2021

Sure @ Sarat Sahu @ Sarat Kumar
Sahoo

....

Petitioner

Mr. P.K. Mishra, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.S. Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
07.12.2022

Order
No.
06.

1. Heard learned counsel for the petitioner and learned counsel for the opposite party-State.
2. The challenge is as to the criminal proceeding in connection with Kantamal P.S. Case No.142 of 2013 corresponding to G.R. Case No.247 (C) of 2013 (G.R. Case No.128 of 2020) pending in the file of learned J.M.F.C., Kantamal on the grounds stated therein.
3. Mr. Mishra, learned counsel for the petitioner submits that the petitioner is no way involved in the alleged incident but has been implicated by the local police without any reason or basis and also chargesheeted for the offences, whereupon, the learned court below has taken cognizance thereof and in the meantime, issued a non-bailable warrant of arrest against him. It is further submitted that after the FIR was lodged, a preliminary chargesheet was filed against some of the accused persons, who thereafter faced trial and stood acquitted of all the charges but then final chargesheet the petitioner was named along with others which is unjustified. It is

claimed that there is no material on record to show the involvement of the petitioner with regard to the alleged incident and hence, the criminal proceeding as against him should be quashed in exercise of inherent jurisdiction of this Court which is objected to by Mr. Mohapatra, learned counsel for the State. Mr. Mohapatra, learned counsel for the State submits that the petitioner should rather participate in the enquiry and trial and defend himself and as such, no case is made out for interference

4. A copy of the chargesheet is at Annexure-2 and the same is perused by the Court. In fact, case under Section 396 IPC and Sections 25 & 27 of the Arms besides Section 9 (B) of the Indian Explosive Act was registered and the petitioner was finally chargesheeted with others.

5. It is claimed that there is no evidence on record to show the complicity of the petitioner. Contention of Mr. Mishra, learned counsel for the petitioner is entirely based on facts which are to be examined by the learned court below during and in course of enquiry and trial. In other words, the Court is of the view that on such a ground which is factually based and needed to be examined by learned court below, this Court cannot exercise jurisdiction to quash the proceeding. The Court is of the opinion that the petitioner should claim for discharge before the learned court below if at all there is no material on record to show about his involvement.

6. It is informed that the original record is not available with the court below for which a split up file has been opened.

7. In any view of the matter, having regard to the nature of allegations and claim of the petitioner about his innocence, the

Court is of the conclusion that though it is not a fit case for interference but he should be allowed the liberty to raise all such grounds at the time of framing of charge and for the said purpose, direction should be issued for him to surrender before the learned court below.

8. Accordingly, it is ordered.

9. In the result, CRLMC stands disposed of with a direction to the petitioner to surrender before the learned J.M.F.C., Kantamal on or before 22nd December, 2022 in connection with G.R. Case No.247 (C) of 2013 (G.R. Case No.128 of 2020) and in the event he surrenders within the stipulated time, the learned court below shall release him on bail subject to conditions. It is further directed in the event any such application so moved by the petitioner seeking discharge, the same shall be considered by the learned Sessions court on commitment and to pass appropriate order thereon as per and in accordance with law.

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

(R.K. Pattanaik)
Judge

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