

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.934 of 2018

Sri Nakula Kumar Sahu and others* *Petitioners

-versus-

State of Odisha and another* *Opposite Parties

CORAM: JUSTICE S. PUJAHARI

ORDER

16.02.2022

Order

No.

06.

1. This matter is taken up through hybrid mode.
2. The application under Section 482 of Cr.P.C. has been filed by the Petitioners challenging the order dated 20th December, 2017 and 22nd December, 2009 passed by the learned S.D.J.M., Bonai in G.R. Case No.379 of 2007 taking cognizance under Section 376 of I.P.C. and to commit the same to the Court of Sessions and for issuing N.B.W. against them for non-appearance.
3. Heard the learned counsel for the Petitioners and the learned counsel for the State-Opposite Party No.1.
4. As it appears, the Petitioners being indicted in the aforesaid case are already on bail, but subsequently Section 376 of I.P.C. having been added, N.B.W. has been issued against them. Petitioners have come to this Court challenging the order taking cognizance under Section 376 of I.P.C.
5. However, learned counsel for the Petitioners submits that the Petitioners does not want to press the order of cognizance, but wants to

raise all the questions at the time of framing of charge and also submits that since the Petitioners were already on bail, it would suffice, if this Court directs that on appearance of the Petitioners before the Court in seisin over the matter, they be released on bail.

6. Considering the aforesaid facts and submissions made, this Court directs that if the Petitioners, who are father, mother and brother of the accused, who stated to have committed rape, surrender before the Court in seisin over the matter within four weeks hence and make a motion for bail, the Court in seisin over the matter shall release them on bail on such terms and condition as it may deem just and proper by taking note of the fact that they were on bail earlier and till four weeks or surrender of the petitioners, the execution of the N.B.W.(A) against them shall remain stayed.

7. However, Petitioners are at liberty to raise the question of their indictment or charge under Section 376 of IPC at the time of framing of charge and in that event, the Court in seisin over the matter shall address the same in proper perspective without being influenced by this order in any manner.

8. With the aforesaid order, this CRLMC stands disposed of.

9. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

DA