

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.736 of 2022

Aju Lima @ Ajaya Lima

Petitioner

Mr. S.K. Panda, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
08.09.2022

Order
No.

01. 1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashing of the order i.e. Annexure-3 whereby the learned court below has issued NBW against him pursuant to taking cognizance of offences under Sections 313, 294, 506, 417, 493, and 323 IPC on the grounds stated therein.
3. Perused the FIR i.e. Annexure-1 and copy of the impugned order which is at Annexure-3.
4. The learned counsel appearing for the petitioner submits that since the charge sheet has been filed deleting the offence of Section 376 IPC and the learned court below having already taken cognizance of the offences later to the submission of charge sheet showing the petitioner as an absconder, a direction should be given to him to surrender before the court below and released on bail subject to condition keeping in view the peculiar facts and circumstances of the case which is objected to by the learned counsel for the State.

5. The contents of the FIR i.e. Annexue-1 are gone through. The Court finds that the petitioner was alleged of committing sexual mischief consequent upon a case under Section 376 IPC and other allied offences was registered vide Adava PS Case No.75 of 2021 but later to the investigation, offence of rape was deleted and charge sheet under Sections 419, 394 besides 313 IPC and other offences was filed whereupon the learned court below took cognizance by impugned order dated 29th October, 2021 and since the petitioner was shown as an absconder, an NBW was against him.

6. Having regard to the nature of allegations in the FIR i.e. Annexre-1 and considering the submissions of learned counsel for the petitioner as well as State, the Court is of the view that there is no wrong committed by the learned court below as such in issuing NBW against the petitioner since he was shown as an absconder in the charge sheet but in the facts and circumstances of the case, he may be directed to surrender and go on bail subject to conditions so as to ensure early commencement of the enquiry and trial.

7. Accordingly, it is ordered.

8. In the result, CRLMC stands dismissed. However, the petitioner is directed to surrender before the learned J.M.F.C., Mohana in connection with G.R. Case No.165 of 2021 arising out of Adava P.S. Case No.75 of 2021 on or before 28th September, 2022 and in the event of his surrender, Court shall release him on bail with conditions as deemed just and proper in the facts and circumstances of the case.

(R.K. Pattanaik)
Judge