

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1264 of 2022

Suresh Chandra Mohanty

....

Petitioner

Mr. Asit Kumar Jena, Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr. Pradip Kumar Rout, AGA, O.P. No.1

None for O.P. No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER
25.08.2022

Order No.

- 01.
1. Heard learned counsel for the petitioner and learned counsel for the State. None appears for opposite party No.2.
 2. Learned counsel for the petitioner submits that the interim order as at Annexure-1 is not sustainable in law, the reason being that the petitioner moved a time petition before the court below and the same was rejected without any justification and merely on the ground that no petition under Section 205 Cr.P.C. had earlier been filed. It is further submitted that a time petition was filed but the same was not entertained, thereafter, bailable and non-bailable warrant dated 17th April, 2019 was issued against the petitioner.
 3. While the matter stood thus, an order dated 13.12.2021 was passed in CRLMC No.2466 of 2021 by this Court as stated by learned counsel for the petitioner with liberty to the petitioner to move a petition under Section 205 Cr.P.C. before the court below.

4. Having considered the submission of learned counsel for the petitioner, the Court is of the view that there is no need of granting any liberty to the petitioner to move a Section 205 Cr.P.C. application because the trial is going on and according to learned court below, there has been unnecessary delay in disposal of the matter attributing and making the petitioner responsible for the same. The Court also does not find any reason to interfere with the impugned order under Annexure-1 for the reason that on the date fixed the petitioner did not move a petition under Section 317 Cr.P.C. as a result of which bailable warrant and thereafter, non-bailable warrant was issued.

5. Considering the fact that the proceeding to be under Section 138 of the N.I. Act, the Court is of the view that the petitioner may be directed to participate in the trial with a direction to surrender and liberty granted to move application under Section 317 Cr.P.C. as and when necessary, which shall be considered on its own merit.

6. Accordingly, it is ordered.

7. In the result, the CRLMC stands partly allowed.

8. Consequently, the petitioner is hereby directed to surrender before the court below on or before 15th September, 2022 and released on bail with conditions and also thereafter to participate in the trial being represented by his counsel under Section 317 Cr.P.C. on future dates which shall be considered by the court below with a rider that he shall not default rather cooperate the court below in the early disposal of the case.

(R.K. Pattanaik)
Judge