

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1517 of 2022

Subash Chandra Tripathy ***Petitioner***

-versus-

State of Orissa ***Opposite Party***

CORAM: JUSTICE S. PUJAHARI

ORDER

30.06.2022

Order

No.

04.

1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 21st April, 2022 passed by the learned Sessions Judge, Angul in C.T.(S) No.51 of 2021 rejecting the application of the Petitioner for grant of permission to obtain the Passport and further be pleased to grant permission for the said purpose.
3. Heard the learned counsel appearing for the Petitioner and Mr. Goutam Kumar Acharya, learned Senior Advocate appearing for the Informant.
4. It appears that the Petitioner being indicated in a case under Sections 376(2)(n), 417, 493, 494 and 506 of the I.P.C. had approached this Court for pre-arrest bail vide ABLAPL No.16304 of 2020 and this Court vide order dated 23rd March, 2021 allowed the Petitioner to release on bail with a stipulation

that he shall surrender his Passport before the court concerned to avoid flight risk. Thereafter, the case having been committed to the court of sessions, the Petitioner has not appeared in the court of sessions, but filed a petition that he has no Passport, as such, a no objection be given him to obtain the Passport to go abroad. The court in seisin over the matter taking note of the aforesaid condition imposed by this Court, did not allow such prayer. Challenging the same, the Petitioner has come to this Court.

5. It is submitted by the learned counsel for the Petitioner that the Petitioner has right to travel abroad, is a fundamental right, as held by the apex Court in the case of ***Smt. Maneka Gandhi v. Union Of India and aother, reported in AIR 1978 SC 597***. In the absence of Passport, the Petitioner is deprived of the same. Therefore, the same could not have been refused.

6. Mr. Goutam Kumar Acharya, learned Senior Advocate appearing for the Informant submits that since this Court considering the fact that the Petitioner may flight risk imposed such condition and the Petitioner is not appearing in the court in seisin over the matter, the impugned order, therefore, cannot be found fault with. As such, the Criminal Misc. Case filed challenging the impugned order is devoid of merit, as such, the same is liable to be dismissed.

7. As it appears, from the contention raised that the Petitioner though involved in a heinous and serious offence was

granted bail, but after commitment of the case, he did not appear before the trial court and is avoiding to appear in the trial court. Further, without appearing in the trial court, however, he through his advocate filed a petition seeking a no objection. When charge sheet has been filed against the Petitioner and the case is pending, he is not entitled to a Passport without “no objection” from the court concerned. The court, however, taking note of the fact that this Court holding him to a flight risk, directed to surrender the Passport, did not issue the same.

8. In the said facts and circumstances, especially the fact that the Petitioner is playing hide and seek with the court and not appearing before the court, this Court finds no illegality and infirmity in the impugned order.

9. Accordingly, the Criminal Misc. Case filed challenging the same is devoid of merit and, as such, the same is dismissed.

10. However, as it is submitted that the Petitioner would appear before the trial court and cooperate with the trial and undertake not to leave India without permission of the court and submit the Passport immediately, if the same is issued, it is directed that if the Petitioner appears before the trial court pursuant to the order of commitment and undertakes to cooperate with the trial within four weeks hence and thereafter filed a petition in this regard seeking no objection, the same shall be considered in proper perspective. However, the trial

court if thinks fit to give such “no objection” takes such measures giving direction to the Passport Authority to ensure surrender of the Passport to the Investigating Officer immediately the same is issued. The court for the purpose while granting “no objection” put the condition that the same shall be handed over to the Petitioner in presence of the I.I.C. of Angul Police Station or any police officer authorized by him in the district of Angul or through the said police station to ensure deposit of the said Passport with the police on receipt of the same. The police immediately on deposit of the Passport seize the same and give a receipt in this regard to the Petitioner. The Petitioner shall cooperate in this regard. The Passport Authority as well as the police also intimate the same to the court concerned immediately through e-mail of the court. The e-mail address and the copy of this order must form part of the “no objection”

(S. Pujahari)
Judge

DA