

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1679 of 2022

Sagar Behera.

....

Petitioner

-versus-

State of Odisha.

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

07.07.2022

Order No.

01.

1. This matter is taken up through Hybrid mode.
2. The petitioner in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) has prayed for quashing of the order dated 20.08.2021 passed by the learned J.M.F.C., Khallikote in G.R. Case No.365 of 2019 issuing N.B.W.(A) against him.
3. Heard the learned counsel for the petitioner.
4. Learned counsel for the petitioner submits that since the petitioner was in custody in another case on the date of issuance of the N.B.W.(A) against him, he could not remain present on that date and, as such, N.B.W.(A) issued against him is illegal and the same is liable to be quashed.

5. However, no material is produced before this Court by the learned counsel for the petitioner to substantiate his aforesaid submission. Since the petitioner did not produce any material to substantiate his aforesaid submission, it cannot be said that the impugned order suffers from any illegality and infirmity.

6. However, liberty is given to the petitioner to appear before the Court in seisin over the matter within six weeks hence and makes a motion for bail, in that event, if the proof is furnished to the effect that the petitioner on the date the N.B.W.(A) issued, was in custody in another case, the Court in seisin over the matter shall allow him to be released on bail on such terms and conditions and recall the N.B.W.(A) issued. In the event, the petitioner fails to produce any such proof, the Court then shall also consider his bail application in its own merit, but in course of the day and consider the recall of the N.B.W.(A) and allow the petitioner to continue in the same bail, if the Court is convinced or the default in appearance on the part of the petitioner was bonafide one.

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

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

(S. Pujahari)
Judge

MRS