

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1732 of 2022

Upendra Khamari @ Khamurai *Petitioner*
-versus-
State of Odisha *Opposite Party*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
22.07.2022

01. 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 5th April, 2022 passed by the learned A.D.J.-cum-Special Judge, Bhadrak in Spl. Case No.106 of 2015 wherein N.B.W.(A) has been issued against him.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party.
4. It appears that the Petitioner, who has been indicted in the aforesaid case, was on bail and facing trial, but when the case was posted on 5th April, 2022, he did not appear before the Court below and no step was taken on his behalf on the date fixed, as such, N.B.W.(A) has been issued against him vide the aforesaid order to procure his attendance. However, the Petitioner has challenged the said order in this petition. But during course of hearing, it is submitted by the learned counsel for the Petitioner that the Petitioner is now ready and willing to surrender before the trial Court and cooperate with the trial and as such, the order of N.B.W.(A) be quashed and the trial court may be directed to allow him on same bail.

5. Considering the facts and submissions made, especially the circumstances in which the N.B.W.(A) was issued, this Court finds no reason to interfere with the impugned order.

6. But, if the Petitioner surrenders to custody of the Court in seisin over the matter within four weeks hence and moves for bail, the Court in seisin over the matter shall allow him to go on bail on such terms and conditions including the condition that he shall cooperate with the trial.

7. Till the aforesaid date, i.e., either the date of appearance before the trial Court or on expiry of four weeks, whichever is earlier, the Petitioner shall not be arrested pursuant to the N.B.W.(A) issued.

8. It is made clear that in spite of this order, if the Petitioner after his release again makes default in appearance, in the next coercive steps to be taken, this fact also be reflected by the trial court.

9. It is also made clear that failure on the part of the Petitioner to surrender and move for bail before the trial Court within the time stipulated, there is no impediment on the part of the trial Court to execute the N.B.W.(A) against the Petitioner.

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

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

(S. Pujahari)
Judge