

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1764 of 2022

Sananda Mahananda

....

Petitioner

Mr. Dillip Kumar Sahu, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr.P.K.Rout, AGA

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

05.09.2022

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 against the order of issuance of NBW/A vis-à-vis the petitioner in connection with G.R. Case No. 323 of 1997 arising out of Bhatli P.S. Case No. 32(3) of 1997 pending before the learned court of S.D.J.M., Bargarh on the grounds stated therein.
3. Perused the F.I.R. i.e. Annexure-1 and also the order of cognizance dated 6th January, 2007 which is Annexure-2.
4. Learned counsel for the petitioner submits that the petitioner has been out of State as he had been to the State of Andhra Pradesh in search of employment and therefore, did not have any knowledge regarding the case and in the meantime, the learned court below, on account of his default, passed the impugned order dated 6th January, 2007 issuing a NBW/A against him and as such, the non-appearance was not deliberate or intentional. It is further submitted that under the above circumstances, the impugned order i.e. Annexure-1 should be

recalled in the interest of justice, which is objected to by the learned counsel for the State.

5. Pursuant to the lodging of the F.I.R., Bhatli P.S. Case No. 32(3) of 1997 was registered under Sections 147/294/332/ 379/149 IPC. In that connection, due to the absence of the petitioner and other accused persons, the learned court below issued NBW/As against them which is pending execution since 2007.

6. Learned counsel for the petitioner submits that the petitioner was not aware of the issuance of warrant of arrest by the court below as he remained outside due to his employment. Notwithstanding the above submission, the Court is of the view that the learned court below did not commit any error while issuing NBW/A against the petitioner. However, taking into account the fact that the petitioner was on bail and reason stated for the alleged default, the Court is inclined to direct him to surrender and go on bail which would rather serve the purpose for the present.

7. Accordingly, it is ordered.

8. In the result, the CRLMC stands disposed of with a direction to the petitioner to surrender before the court of learned SDJM, Bargarh in G in connection with G.R. Case No. 323 of 1997 arising out of Bhatli P.S. Case No. 32(3) of 1997 on or before 26th September, 2022 and in the event of his surrender, the court shall release him on bail subject to conditions.

9. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge