

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1768 of 2022

Rakesh Bisoi and others *Petitioners*
-versus-
State of Odisha *Opposite Party*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
20.07.2022

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 Petitioners with a prayer to quash the order dated 12th May, 2022 passed by the learned S.D.J.M., Baripada in C.T. Case No.446 of 2022 wherein the learned S.D.J.M. directed to the I.O. to commit the Petitioners to custody.
3. Heard the learned counsel for the Petitioners and the learned counsel for the State.
4. It appears that the Petitioners were already released on bail by the learned S.D.J.M., Baripada while investigation was going on in Baripada Town P.S. Case No.171 of 2022, but later on they having been charge sheeted for certain graver offences, i.e., Sections 326 and 307 of I.P.C., the learned S.D.J.M., Baripada appears to have directed the police to take the Petitioners to custody while rejecting the prayer of the I.O. to cancel the bail.

5. From the order of the learned Magistrate, it appears that the learned Magistrate though has taken note of the law laid down in the case of ***Pradeep Ram v. State of Jharkhand and another*** but it has not given reference, like case number or journal, in which, it has been reported and also the court. The aforesaid has become common in the order of different P.O. of district judiciary in Odisha. The same is putting this court in difficulties at times in getting the reference and examine the correctness of the order vis-à-vis the ratio rendered in such verdict on which reliance has been placed. But, the decision has been rendered in the case of ***Pradeep Ram v. State of Jharkhand and another, reported in AIR 2019 SC 3193***, as this Court is aware.

6. However, without entering into further discussion of the same and taking note of the fact that the Petitioners were already on bail, this Court directs that if the Petitioners surrender in connection with the aforesaid case before the Court in seisin over the matter within four weeks hence and make a motion for bail, the Court in seisin over the matter shall consider and dispose of the same in accordance with law during the first hour. In case of rejection of the bail application, the Petitioners may move for bail before the next higher forum in the second hour and in that event, the bail application of the Petitioners shall be dealt with and disposed of by the higher forum on the same day taking note of the fact that they were already on bail and not misutilized the liberty granted to them, but as the I.O. made a prayer for cancellation of the bail and in the said premises, the impugned order was passed, they had surrendered and approached the court for bail. However, till the date of surrender or the expiry of the period given to the Petitioner to surrender, Petitioner shall not be arrested pursuant to the order made.

7. Records shall be transmitted to the higher forum. Cost, if any, shall be paid by the Petitioners.
8. The CRLMC is, accordingly, disposed of.
9. Urgent certified copy of the order be granted on proper application.

(S. Pujahari)
Judge

DA

