

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1850 of 2022

Santosh Kumar Barik & Another

....

Petitioners

Mr. S.K.Mohanty, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. T.K.Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

01.12.2022

Order No.

- 01.
1. Heard learned counsel for the petitioners and Mr. Praharaj, learned counsel for the State.
 2. Prayer in the present case is to quash of the order dated 9th June, 2022 in U.C. Case No. 4 of 2021 passed by the learned JMFC, Khallikote whereby an application under Section 205 Cr.P.C moved by the petitioners was rejected.
 3. Learned counsel for the petitioners submits that the offences are under the M.V. Act and the petitioners are staying outside the State on account of their employment and cannot therefore attend the learned court below on each and every date and therefore, an application under Section 205 Cr.P.C. was moved by them. It is further submitted that the learned court below failed to appreciate the same and rejected the application filed under Section 205

Cr.P.C. and hence, the impugned order under Anneuxre-1 is unjustified and not tenable in law.

4. Mr. Praharaj, learned counsel for the State on the other hand submits that no evidence was produced before the learned court below with regard to the place of residence of the petitioners as it was claimed that they are the residents of a place outside the State and therefore, the learned court below did not commit any error in rejection of such an application under Section 205 Cr.P.C.

5. On the solitary ground so raised by the learned counsel for the petitioners, an application under Section 205 Cr.P.C may not be allowed. There cannot be a blanket exemption for an accused from appearing before the Court on the ground that the offences are punishable under the M.V.Act. That apart, there was no evidence brought to the notice of the learned court below regarding the place of residence of the petitioners and therefore, such a move under Section 205 Cr.P.C. was rightly rejected. The Court does not find any reason to interfere with the impugned order under Anneuxre-1 series.

6. In the meantime, as informed by the learned counsel for the petitioners, the learned court below has issued summons to them for appearance. Considering the same, the Court is of the view that since it is not inclined to interfere with the order of the court below, the petitioners should, however, be directed to appear in connection with the case and released on bail. In any case, the petitioners shall have liberty to apply for exemption in terms of Section 317 Cr.P.C. as and when required subject to orders of the learned court below.

7. Accordingly, it is ordered.

8. In the result, CRLMC stands disposed of with a direction to the petitioners to appear before the learned court of the JMFC, Khallikote in connection with U.C. No.4 of 2021 on 16th December, 2022 and in the event they appear on the date fixed, the court below shall release both of them on bail as in any case the offences appear to be bailable in nature.

(R.K. Pattanaik)
Judge



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