

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1924 of 2022

Nali @ Tapas Kumar Swain

....

Petitioner

Mr. S.K. Bhanjadeo, Advocate

-Versus-

State of Odisha and Another

....

Opposite Parties

Mr. S.S. Mohapatra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

02.12.2022

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 by the petitioner for quashing of the criminal proceeding in connection with G.R. Case No.1160 of 2018 corresponding to Khurda P.S. Case No.495 of 2018 pending in the file of learned S.D.J.M., Khurda on the grounds stated therein.

3. A copy of the FIR is at Annexure-1 and it shows that later to the lodging of the report by the informant-opposite party No.2, Khurda P.S. Case No.495 of 2018 was registered under Section 307 IPC and other allied offences besides Sections 25 & 27 of the Arms Act.

4. Learned counsel for the petitioner submits that a counter FIR is also lodged against opposite party No.2 and others in

connection with the self-same incident and in the meantime, the investigation is concluded and the petitioner has been chargesheeted under the alleged offences. It is further submitted that other accused have been granted bail by orders of the Court, copies of which are at Annexure-3.

5. A limited prayer is made by the learned counsel for petitioner that if the Court is not inclined to interfere with the criminal proceeding, in that case, the petitioner should be directed to surrender and allowed to go on bail considering the fact that other accused persons have been released on bail which is objected to by Mr. Mohapatra, learned counsel for the State on the ground that case under Section 307 IPC is prima facie made out considering the contents of the FIR i.e. Annexure-1.

6. Copy of the chargesheet is at Annexure-2 and the same is perused by the Court.

7. Looking at the nature of allegations and the circumstances leading to the lodging of the report, this Court is not inclined to interfere with the criminal proceeding pending before the learned court below. However, considering the submission of learned counsel for the petitioner, it is of the view that the petitioner should be directed to surrender before the learned court below but to applying for regular bail by pleading parity on the ground that other accused persons have been granted bail.

8. Accordingly, it is ordered.

9. In the result, the CRLMC stands disposed of with a direction to the petitioner to surrender before the learned S.D.J.M., Khurda on or before 20<sup>th</sup> December, 2022 in connection with G.R. Case No.1160 of 2018 corresponding to Khurda P.S. Case No.495 of 2018 and in the event, he surrenders within the stipulated time, the court below shall consider his application for bail and pass appropriate orders thereon and in the event, bail is refused, he shall have the liberty to approach the higher forum during 2<sup>nd</sup> hour and in such an event, the learned Sessions court shall do well to pass appropriate order as per and in accordance with law considering the plea of parity. It is directed that for the said purpose, the lower court record shall be transmitted to the Sessions court at the cost of the petitioner in order to facilitate hearing and disposal of the bail plea on the same day.

10. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)  
Judge

Tudu