

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1938 of 2022

Rabindra Nath Subudhi *Petitioner*
-versus-
State of Odisha and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

ORDER

05.08.2022

Order
No.

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 Notice dated 10th June, 2022 under Section 160 of Cr.P.C. issued by the Opposite Party No.2 against him.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Parties.
4. The grievance of the Petitioner is that a notice under Section 160 of Cr.P.C. was given to him though he received the notice late. Earlier he has asked to produce certain documents in connection with release of his vehicle in Banpur P.S. Case No.113 of 2022. Accordingly, documents sent through post. Thereafter, he was served the notice under Section 160 of Cr.P.C. to appear before the police and as the Petitioner has not appeared before the police on the date fixed in view of the delay in receipt of such notice. Therefore, the Petitioner

apprehends that he is likely to be taken to custody in the aforesaid case, as repeated raid is made in his house. On such, apprehension, when the Petitioner made a prayer for anticipatory bail wherein this Court though not inclined to grant anticipatory bail, passed an order to surrendering. Petitioner stated for the aforesaid act of the police, he has been unable to surrender. It is submitted that he was not at all present at the spot, but as his vehicle stated to have been used, he being harassed. In such premises, he has come to this Court to quash the notice under Section 160 of Cr.P.C.

5. Needless to say that police has every authority to examine a person giving notice under Section 160 of Cr.P.C. while investigating into a criminal case, if Investigating Officer is of the view that his evidence is essential for investigation and/or is required for interrogation. Therefore, this Court is of the view that notice under Section 160 of Cr.P.C. cannot be said to be bad on the ground stated.

6. However, as it is stated that the Petitioner has received the notice after the date of appearance mentioned was expired, no adverse view shall be taken against the Petitioner for non-appearance on the date fixed and if the Petitioner seeks time to the police authority to appear on other date, it is expected that police shall do well to give another date for his appearance. So also it is stated that the Petitioner is also not being allowed to proceed with the court due to raiding of his house in regular interval and in the meanwhile, accused Prasant Jagadev, who

used the vehicle of the Petitioner, is released on bail and the Petitioner is not a flight risk. Therefore, this Court hope and trust that the police would not make unnecessary harassment to the Petitioner and allow him to surrender in the court and move for bail, provided he is ready to appear before the police and cooperate with investigation.

7. With the aforesaid order, this Criminal Misc. Case stands disposed of.

(S. Pujahari)
Judge

DA

