

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2228 of 2022

Kartik Jena and another

.... Petitioners
Mr. Manas Chand, Advocate

-Versus-

State of Orissa

.... Opposite Party
Mr. T.K. Praharaj, S.C.

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
15.11.2022

Order No.

- 01.
1. Heard Mr. Manas Chand, learned counsel for the petitioner and learned T.K. Praharaj, learned ASC for the State.
 2. In the instant case, the petitioners have prayed to quash the registration of Banpur P.S. Case No.112 of 2022 corresponding to G.R. Case No.100 of 2022 pending in the file of learned J.M.F.C., Banpur on the grounds stated therein.
 3. Perused the FIR as at Annexure-1, consequent upon which, Banpur P.S. Case No.112 of 2022 has been registered for commission of alleged offences under Sections 147, 148 IPC and other allied offences along with Section 12 of Orissa Mines and Minerals (Prevention of Theft & Smuggling Activities) Act, 1989 and Section 3 of Prevention of Damage to Public Property Act, 1984.
 4. Mr. Chand, learned counsel for the petitioners do not want to press the matter on merit, however, he submits that the petitioners should be directed to surrender and apply for regular bail considering the fact that no offence under Section 307 IPC is

made out and while claiming so, refers to Annexure-1. It is also submitted that some of the other accused persons having been released in the meantime and therefore, the petitioner should be allowed to surrender and apply for bail pleading parity.

5. Mr. Praharaj, learned counsel for the State strongly objects to the contention of Mr. Chand and submits that the prayer of the petitioner had been rejected by this Court the fact which has been suppressed by the counsel for the petitioners.

6. In response to the above, it is claimed that the petitioners should be granted liberty to surrender before the learned J.M.F.C., Banpur in G.R. Case No.100 of 2022 arising out of Banpur P.S. Case No.112 of 2022 and apply for regular bail only.

7. Accordingly, it is ordered.

8. Consequently, the CRLMC stands disposed of with a direction to the petitioners to surrender before the court of learned J.M.F.C., Banpur on or before 2nd December, 2022 in G.R. Case No.100 of 2022 arising out of Banpur P.S. Case No.112 of 2022 and in the event they surrender and apply for bail, the court shall consider the same and pass orders thereon in accordance with law and in the event of rejection, they shall have liberty to move the higher forum in the second hour and renew their prayer, which shall be considered by the court in seisin over the matter on its own merit and dispose it of on the same day considering the plea of parity, if any and for the above purpose, the lower court records shall be made available to the Sessions court at the cost of the petitioner.

9. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge