

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2820 of 2022

Liku @ Plaban Mohanty

....

Petitioner

Mr. S.K. Panda, Advocate

-Versus-

The State of Orissa

....

Opposite Party

Mr. Sidharth Shankar Mohapatra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

30.09.2022

Order No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The challenge is to the quashing of the order of issuance of NBWA dated 7th October, 2017 passed by the learned S.D.J.M., Athagarh in C.T. Case No.67(A) of 2013 arising out of Athagarh P.S. Case No.20 of 2013 on the grounds stated therein.
3. Perused the copy of the impugned order under Annexure-1 and other relevant records under Anenxure-2 and 3 series.
4. In fact, the informant lodged an FIR vide Athagarh P.S. Case No.20 (02) of 2013 under Section 394 IPC and on completion of investigation, the police filed the chargesheet under Sections 395/412 IPC. It is submitted that the petitioner is shown as an absconder in the present case but the other co-accused persons were made to face trial in S.T. No.120 of 2017 which finally ended in an

order of acquittal by the judgment dated 27th January, 2020 passed by the learned Additional District and Sessions Judge, Athagarh. It is claimed that petitioner did not have any direct involvement in the alleged incident and as such, he has been implicated the reason being that he had sold an old mobile set to one of the accused. It is further submitted that there has been no recovery of any incriminating material made from the petitioner. In the meantime, the chargesheet has been filed. Having claimed so, the learned counsel for the petitioner submits that since warrant is pending execution for long time, the petitioner should be directed to surrender so that the trial may be commenced.

5. Mr. Mohapatra, learned counsel for the State submits that there is no wrong committed by the learned court below in issuing NBWA against the petitioner and therefore, it does not call for any interference.

6. The Court perused the judgment in S.T. No.120 of 2017 passed by the learned Additional District & Sessions Judge, Athagarh dated 27th January, 2020, wherein, the other co-accused persons were not found guilty for the offences under Sections 395/421 IPC and they stood acquitted of the said charges. Having regard to the fact that NBWA is pending execution against the petitioner, the Court is of the view that he should be directed to surrender and released on bail in order to facilitate commitment of the case forthwith and also early disposal of the case. Accordingly it is ordered.

7. Consequently, the CRLMC stands disposed of.

8. Accordingly, the petitioner is directed to surrender before the learned S.D.J.M., Athagarh on or before 21st October, 2022 in C.T. Case No.67(A) of 2013 arising out of Athagarh P.S. Case No.20

of 2013 and in the event of his surrender, the court shall release him on bail on such terms and conditions as would be deemed fit and proper in the facts and circumstances of the case.

9. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

