

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2992 of 2022

Subash Chandra Tripathy

Petitioner

M/s. S. Das, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. S. S. Mohapatra, ASC

Mr. G.K. Acharya, Senior Advocate for informant

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

01.11.2022

Order  
No.

01.

1. Heard Ms. S. Das, learned counsel for the petitioner, Mr. Mohapatra, learned counsel for the State and Mr. G.K. Acharya, learned Senior Advocate assisted by Mr. Budhia, Advocate for the informant.

2. In the instant case, the challenge is as to the issuance of NBWA by the impugned order dated 25<sup>th</sup> July, 2022 under Annexure-1 in C.T.(S) Case No.51 of 2021 arising out of G.R. Case No.2072 of 2020 pending in the file of learned Sessions Judge, Angul on the grounds stated therein.

3. Learned counsel for the petitioner submits that the petitioner due to communication lapse could not ensure his appearance before the learned Sessions court, as a result of which, the impugned order under Annexure-1 was passed with an issuance of NBWA against him which is currently pending execution. It is further submitted that the petitioner should be directed to surrender before the Sessions court on any date and may be released on bail subject to such terms and conditions as fixed by the court. Mr.

Mohapatra, learned counsel for the State on the other hand objects to the prayer of the petitioner. Mr. Acharya, learned Senior Advocate appearing for the informant submits that the warrant of arrest which has been issued by the learned court below could not be executed due to the connivance of the local police and hence, the petitioner could not be arrested and that apart, he had been to this Court in CRLMC No.1517 of 2022 dated 21<sup>st</sup> April, 2022 whereby the permission to obtain passport was refused. A copy of the order dated 30<sup>th</sup> June, 2022 in CRLMC No.1517 of 2022 filed by the petitioner is produced before this Court so as show that such a relief was declined by this Court.

4. It is informed to the Court that the petitioner was granted bail in ABLAPL No.16304 of 2020, however, he did not cooperate in the investigation whereafter he was arrested by the local police and thereafter, the petitioner was directed to ensure appearance of the court below and cooperate in the trial which was by the order dated 30<sup>th</sup> June, 2022 in CRLMC No.1517 of 2022. Under the above circumstances, Mr. Acharya, learned Senior Advocate submits that no leniency should be shown to the petitioner because of his conduct as he is avoiding process of law. Learned counsel for the petitioner, however, reiterated the prayer for a direction for his surrender and allowed to go on bail subject to any condition.

5. Having regard to the facts of the case and submissions of learned counsel appearing for the respective parties, the Court is of the view that in order to ensure early commencement of enquiry and trial, the petitioner should be directed to surrender before the learned Sessions court which would rather serve the purpose and meet the ends of justice. In any case, the petitioner was on bail and was released to subject to conditions. At present, notwithstanding issuance of NBWA, the Court is of opinion that the petitioner

should be directed to surrender and released on bail subject to stringent conditions as would be fixed by the Sessions court.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands disposed of with a direction to the petitioner to surrender before the court of learned Sessions Judge, Angul in C.T.(S) Case No.51 of 2021 corresponding to Angul P.S. Case No.1235 of 2018 on or before 22<sup>nd</sup> November, 2022 and in the event of his surrender, the court shall release him on bail subject to such terms and conditions with an additional condition that he shall be physically present on each and every date of the posting of the case till the closure of trial.

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

(R.K. Pattanaik)  
Judge

TUDU

