

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3437 of 2022

Basanta Majhi @ Basanta Muthamajhi Petitioner
Mr. S.K.Dwivedi, Advocate

-Versus-

State of Odisha Opposite Party
Mr. S.S.Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
17.11.2022

Order No.

01. 1. Heard learned counsel for the petitioner and learned counsel for the State.
2. In the present case, the challenge is as to the impugned order dated 10th December, 2021 passed in C.T. Case No. 496 of 2022 and also the entire criminal pending in the file of learned JMFC, Tumudibandha on the grounds stated therein.
3. Perused the copy of the impugned order as at Annexure-1 whereby the learned court below has taken cognizance of the offences under Section 307 read with 34 IPC and 25 & 27 Arms Act.
4. Learned counsel for the petitioner referring to the F.I.R. and statement of the informant recorded under Section 161 Cr.P.C. submits that the involvement of the petitioner is only suspected, inasmuch as, his son was found near the spot immediately after the incident and since he had threatened them before, on such ground, the F.I.R. was lodged which ultimately led to the submission of chargesheet under

Section 307 IPC. It is further submitted that the other accused, namely, son of the petitioner is on bail and considering the above facts, the petitioner should be directed to surrender and allow to go on bail subject to conditions which is objected to by Mr. Mohapatra, learned counsel for the State having regard to the nature of allegations and the offence involved.

5. A copy of the bail order dated 22nd April, 2021 in C.T. Case No. 496 of 2020 is produced by the learned counsel for the petitioner in respect of the petitioner's son who was released on default bail in terms of Section 167(2). A copy of the statement of the informant recording under Section 161 Cr.P.C. is also produced. As it appears, the petitioner's son was present near the spot in course of an incident in which a gunshot was fired which led to an injury of the informant's father as all of them at the relevant point of time were clearing the forest area. It appears that since the petitioner was involved earlier in threatening the informant, his role in the alleged firing was hence suspected and on suspicion, the allegation was made and F.I.R. which leading to the filing of the chargesheet under Section 307 IPC.

6. Having regard to the above facts, closure of investigation and in the meantime, the chargesheet stood filed and the fact that the petitioner's son is already on bail since 2021, the Court is of the view that the petitioner should as well be granted the relief as prayed for which would serve the purpose for the present though it is disinclined to quash the order under challenge.

7. Accordingly, it is ordered.

8. In the result, the CRLMC stands disposed of the with a direction to the petitioner to surrender before the learned JMFC, Tumudibandha in connection with C.T. Case No. 496 of 2020(PF) corresponding to Tumudibandha P.S. Case No. 80 2020 on or before

9th December, 2022 and in the event of his surrender, the court shall release him on bail with conditions.

9. Urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

