

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3622 of 2022

Muna Mallik @ Kuna @ Kartika Mallik **Petitioner**
Mr. A.R. Panda, Advocate

-Versus-

State of Orissa **Opposite Party**
Mr. T.K. Praharaj, S.C.

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
12.12.2022

Order No.

02.

1. Heard learned counsel for the respective parties.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashing of the criminal proceeding in connection with Special G.R. Case No.29 of 2017 arising out of Dharmasala P.S. Case No.115 of 2017 in the file of learned Additional District and Sessions Judge-cum-Special Judge, Jajpur on the ground that no case under Section 376 (2)(n) IPC and Section 6 of POCSO Act is made out.
3. Perused the copy of the FIR as at Annexure-1.
4. The petitioner stands chargesheeted for an offence under Section 376(2)(n) of IPC besides other offences including Section 6 of POCSO Act. The chargesheet was filed in the year 2018.
5. Mr. Panda, learned counsel for the petitioner submits that at present the appearance of the petitioner is pending before the learned court below which has issued summons for the same. It is submitted that the petitioner was under interim protection as revealed from Annexure-3. It is informed to the Court that petitioner was on anticipatory bail by this Court in ABLAPL No.6026 of 2017, however, the same could not be complied with.

Considering the above facts and the allegations made against the petitioner and keeping in view the fact that victim was a minor and eloped with the petitioner, if the Court is not inclined to quash the proceeding, at least he should be directed to surrender before the learned court below as he had previously been allowed a similar relief.

6. An objection is received from learned counsel for the State considering the nature and gravity of offences alleged against the petitioner.

7. Having regard to the nature of allegations in Annexure-1 and the fact that the the victim girl eloped with the petitioner and in the meantime, 5 years have gone by, the Court is not inclined to interfere with the proceeding but directs that petitioner should be allowed to surrender and released on bail with conditions as would be fixed by the court below.

8. Accordingly, it is ordered

9. In the result, the CRLMC stands disposed of with a direction to the petitioner to surrender before the learned Additional District and Sessions Judge-cum-Special Judge, Jajpur on or before 23th December, 2022 in Special G.R. Case No.29 of 2017 arising out of Dharmasala P.S. Case No.115 of 2017 and in the event he surrenders, the court below shall release him on bail subject to conditions.

10. Issue urgent certified copy of this order on proper application.

(R.K. Pattanaik)
Judge

U.K.Sahoo