

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3718 of 2022

Hari Shankar Das

....

Petitioner

Mr. Amulya Ratna 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.

01.

1. Heard learned counsel for the respective parties.
2. Prayer in the present case is to quash the order dated 24th November, 2022 passed by the learned Sessions Judge-cum-Special Judge, Balasore in Special Case No.270 of 2021 arising out of Basta P.S. Case No.290 of 2021 to release the petitioner on default bail under Section 167(2) Cr.P.C. read with Section 36-A(4) of N.D.P.S. Act.
3. Mr. Panda, learned counsel for the petitioner submits that petitioner had applied for default bail in terms of Section 167(2) Cr.P.C. read with Section 36-A(4) of N.D.P.S. Act, however, it was not allowed vide Annexure-3. It is submitted that in such eventuality, the petitioner now be allowed to plead for regular bail in view of the orders of this Court in the case of **Sk. Eimat @ Bidhia Vrs.State of Odisha** in CRLMC No.2033 of 2022 and two other cases i.e. **Sk. Belaluddin Vrs. State of Odisha** in CRLMC No.1170 of

2022 and **Sk. Samatulla Vrs. State of Odisha** in CRLMC No.3073 of 2022.

4. Mr. Praharaj, learned counsel for the State on the other hand submits that the court below did not commit any error or illegality in rejecting the plea for default bail under Section 167(2) Cr.P.C. which is in consonance with the decision of this Court in the case of **Sk. Eimat @ Bidhia**(supra) and a copy of the order passed in CRLMC No.3073 of 2022 has been produced contending that since default bail under Section 167(2) Cr.P.C. has been rejected by the learned court below, the petitioner should be allowed to apply for regular bail under Section 437 Cr.P.C. in view of the decision *ibid*. The Court does not find any reason or ground for interference vis-à-vis Annexure-3 since learned Special court considered the plea and rejected the claim as the investigation was over. The Court is also of the view that the petitioner is now entitled to plead for regular bail under Section 437 Cr.P.C. which is to be considered by the learned court below in the light of the directions issued in **Sk. Eimat @ Bidhia**(supra).

5. Mr. Panda, learned counsel for the petitioner submits that such liberty may be granted to the petitioner to move again for regular bail before the court below which would serve the purpose and meet the ends of justice.

6. Considering the above facts and submissions of learned counsel for the respective parties, the Court is of the view that since the petitioner was unsuccessful for having obtained order under Section 167(2) Cr.P.C., in the light of the directions of this Court in **Sk. Eimat @ Bidhia**(supra), he should be allowed to apply for regular bail and accordingly, it is ordered.

7. Consequently, the CRLMC stands disposed of with liberty granted to the petitioner to plead for regular bail in connection with Special Case No.270 of 2021 arising out of Basta P.S. case No.290

of 2021 and in the event any such application so moved, the same shall be considered by the learned Special Sessions Judge-cum-Special Judge, Balasore and orders to be passed thereon as per and in accordance with law in the light of the directions issued in the decision (supra).

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

(R.K. Pattanaik)
Judge

U.K.Sahoo

