

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3819 of 2022

Dinesh Jaiswal

....
Mr. Sougat Dash, Advocate

Petitioner

-Versus-

State of Orissa

....
Mr. S.S. Mohapatra, ASC

Opposite Party

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
13.12.2022

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 praying for quashing of the order dated 9th August, 2021 passed by the learned S.D.J.M., Panposh, Rourkela in G.R. Case No.864 of 2021 on the grounds stated therein.
3. Perused the copy of the FIR under Annexure-1, which reveals that Udit Nagar P.S. Case No.111 of 2021 was registered for the offence under Sections 379 IPC along with other allied offences.
4. After completion of investigation, chargesheet under Annexure-2 has been submitted against the petitioner, whereafter impugned order under Annexure-3 was passed.
5. Mr. Dash, learned counsel for the petitioner submits that the petitioner is not involved in the alleged transportation and the allegation has been made under Annexure-1 is justified. While claiming so, Mr.S. Dash, learned counsel for the petitioner produced copies of the vouchers. It is submitted that the vehicle was intercepted by the local police and the alleged vehicle was carrying

scrap materials and so far as the petitioner's involvement is concerned, it is revealed from the FIR that nothing has been found to show the complicity of the petitioner, which is objected to by the State Counsel on the ground that the materials on record as at Annexure-1 prima facie makes out a case against the petitioner. As per the FIR, the driver of the alleged vehicle was found transporting iron scrap materials illegally and it was at the instance of Maa Tareni Metal. It is submitted that the consignment of the petitioner of 3200 kgs was cancelled in the meantime on 5th June, 2021 but then another e-way bill was generated in the name of Maa Tareni Metal in respect of the said vehicle. With the said allegation, the FIR was lodged. If at all there was illegal transportation or otherwise by Maa Tareni Metal, it shall be examined by the learned court below during trial. In other words, according to the Court, the material evidence which is referred to by learned counsel for the petitioner shall have to be verified and examined during trial. However, the Court is also of the view that since chargesheet has been filed and learned court below took cognizance under Annexure-3 and petitioner being a proprietor of Maa Tareni Metal, he should be directed to surrender before the learned court below so as to enable him to face the enquiry and trial.

6. Accordingly, it is ordered.

7. Consequently, the CRLMC stands disposed of.

8. In the result, the petitioner is directed to surrender before the learned S.D.J.M., Panposh, Rourkela on or before 23rd December, 2022 in G.R. Case No.864 of 2021 and in the event he surrenders, the court below shall release him on bail with conditions as would be found just and proper in the facts and circumstances of the case. Liberty is also granted to the petitioner to take any such grounds as are available to him under law at the time of framing of charge and in the event any such application so moved by him, it

shall be considered by the leaned court below and pass appropriate orders to be passed thereon in accordance with law.

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

(R.K. Pattanaik)
Judge

U.K.Sahoo

