

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3824 of 2022

Sudam Maharana

....

Petitioner

Mr. Jayanta Kumar Majhi, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. Sitikanta Mishra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

21.12.2022

Order No.

- 01.
1. Heard learned counsel for the petitioner and learned counsel for the State.
 2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner assailing the impugned order of cognizance dated 17th March, 2022 passed in C.T. Case No.969 of 2021 arising out of Chandipur P.S. Case No.90 of 2021 pending in the court of learned J.M.F.C.(C), Balasore, on the grounds stated therein.
 3. Perused the copy of the impugned order under Annexure-1 and also copy of the FIR as at Annexure-2.
 4. On a report being lodged by the informant, Chandipur P.S. Case No.90 of 2021 was registered against the petitioner under Sections 272, 273, 34 IPC and Section 52(a) of the Orissa Excise Act, 2008.
 5. Learned counsel for the petitioner submits that no case is made out against the petitioner and in the meantime, other co-accused persons have been released on bail. It is further submitted

that the offence under Section Sections 272 and 273 IPC is not tenable in law.

6. Mr. Mishra, learned counsel for the State submits that if there are no material vis-à-vis the offences under Sections 272, 273 & 34 of IPC and Section 52(a) of the Orissa Excise Act, 2008, the petitioner may claim for discharge during enquiry.

7. In course of hearing, learned counsel for the petitioner produces a copy of the chargesheet and certified copy of the chemical examination report dated 23rd September, 2022 which are taken on record and the Court perused the same.

8. The Court considering the fact that the chargesheet has already been filed, the petitioner should be granted liberty to seek discharge, which may be considered by the learned court below on its own merit and in accordance with law in juxtaposition to the chemical examination report and however, in the facts and circumstances of the case, for the present, the petitioner should be directed to surrender before the learned court below and released on bail.

9. Accordingly, it is ordered.

10. In the result, the CRLMC stands disposed of with a direction to the petitioner to surrender before the learned J.M.F.C.(C), Balasore on or before 12th January, 2023 in C.T. Case No.969 of 2021 arising out of Chandipur P.S. Case No.90 of 2021 and in the event he surrenders within the time stipulated, the court below shall release him on bail with conditions as deem just and proper.

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

(R.K. Pattanaik)
Judge