

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2606 of 2021

***Papu @ Galua @ Santosh
Kumar Mohapatra***

....

Petitioner

Mr. S. Harichandan, Advocate

Versus

State of Orissa

....

Opp. Party

Mr. S.S. Pradhan, Advocate

**CORAM:
JUSTICE SAVITRI RATHO**

**ORDER
06.01.2022**

Order No.

01.
 1. This matter is taken up through hybrid mode.
 2. Heard Mr. S. Harichandan, learned counsel for the petitioner and Mr. S.S. Pradhan, learned Addl. Govt. Advocate for the State.
 3. This application under Section 482 Cr.P.C. has been filed by the petitioner Papu @ Galua @ Santosh Kumar Mohapatra praying for quashing of the order dated 20.09.2021 passed by the learned S.D.J.M., Deogarh in C.T. Case No.337(A) of 2007 arising out of Barkote P.S. Case No.73 of 2007.
 4. Vide order dated 20.09.2021 passed by the learned S.D.J.M., Deogarh rejecting his petition for grant of time for appearance of the petitioner on the ground that the petitioner has not filed any documents in support of his submission that he is a diabetes patient and had taken doctor's appointment on 20.09.2021 for his health check up for which he could not appear before the Court on the date fixed.
 5. The petitioner is an accused in C.T. Case No.337(A) of 2007 and charge sheet has been filed against him showing him as

an absconder pursuant to which NBW of arrest was issued against him on 26.11.2019. The NBW of arrest was executed and the petitioner has been arrested on 22.08.2021 and produced before the Executive Magistrate, Kujanga on the same day and his prayer for bail was rejected by the Executive Magistrate, Kujanga for which he has filed a bail application before the learned Addl. Sessions Judge, Kujanga. Vide order dated 01.09.2021, the learned Addl. Sessions Judge, Kujanga has observed in the order, that the warrant of arrest was issued on 26.11.2019 and the offence is non-bailable nature, but the warrant of arrest is not accompanied with the substance of information against the accused together with such documents so as to enable the Court acting under Section 81 of the Cr.P.C. to decide whether the bail should or should not be granted. Holding that the learned Court issuing warrant has not followed the due procedure prescribed under Section 78(2) of the Cr.P.C. and as the accused is in custody for last 10 days and undertakes to appear before the said Court on the date to be fixed, the learned Court allowed the prayer for bail and directed for release of the petitioner on bail of Rs.30,000/- with two solvent surety for the like amount to the satisfaction of the learned Executive Magistrate, Kujang and directed the learned Executive Magistrate to fix a date for appearance of the accused before the Court issuing warrant. The date of appearance had been fixed to 20.09.2021.

6. Mr. S. Harichandan, learned counsel for the petitioner submits that on account of his illness the petitioner was unable to appear before the Court of learned S.D.J.M., Deogarh on 20.09.2021 and hence he had filed an application for time on account of his illness but as he was unable to file the supporting medical documents, the said application has been rejected erroneously for which he should be granted bail. He also submits

that if the date for appearance is extended the petitioner undertakes to appear before the learned S.D.J.M., Deogarh on the date fixed.

7. Considering the above submissions and the fact that the case is pending since in the year 2007, I feel that the interest of justice should be served if the date fixed for appearance of the petitioner before the learned S.D.J.M., Deogarh is extended by a period of four weeks. The petitioner shall appear before learned S.D.J.M., Deogarh on or before 03.02.2022 and move for bail.

8. Learned counsel for the petitioner submits that as the charge sheet has been filed for the offence under Section 412 of the I.P.C. which is triable by the Court of Session, the Magistrate might reject his prayer for bail. So direction may be issued for expeditious disposal of the bail application on the same day so that the petitioner can move the higher Court on the same day.

9. Considering the said submission, it is directed that if there is no other impediment, the learned S.D.J.M., Deogarh shall take up the bail application in the first hour so as to enable the petitioner to move the higher Court for bail in case of rejection of his prayer by the learned S.D.J.M., Deogarh.

10. The CRLMC is accordingly disposed of.

11. Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge

Sukanta