

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMA No. 355 of 2022

Santosh Kumar Nandi

....

Petitioner

Mr. S.R. Rout, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

07.12.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned counsel for the State
3. Order dated 20.10.2022 passed by the learned 1st Additional Sessions Judge, Cuttack, inter alia, directing the Petitioner to furnish cash security of Rs.5,000/- (rupees five thousand) while enlarging him on bail in B.A. No.1125 of 2022 is the subject-matter of challenge in the present CRLMA.
4. Petitioner is an accused in S.T Case No.267 of 2021 pending on the file of learned C.J.M-cum-ASJ., Cuttack under Sections 328/379/34 IPC and he is in custody since 21.01.2021.
5. It is submitted by the learned counsel for the Petitioner that because of his penury, the Petitioner is not able to furnish cash security of Rs.5,000/-, as stipulated by order dated 20.10.2022 of the learned 1st Addl. Sessions Judge, Cuttack. Hence, he is still in custody.

6 It is apt to state here that this Court in the case of *Pintu @ Sanjeev Chakrabarti v. State of Orissa* reported in *2004 (1) OLR 558* referring to the judgment passed by the apex Court has clearly enunciated the law that Court while granting bail normally should not impose cash security as a condition precedent for enlarging the accused on bail. As consequently on non-fulfillment of such condition the accused has to remain in custody.

7. It needs no emphasis that right to be released on bail, in an appropriate case has been considered to be a facet of Article 21 of the Constitution. Hence, time and again, the apex Court and this Court has expressed the concern and fixed the guidelines that while granting bail, the court ought not to act as a collecting agent.

8. In imposing the cash security, learned Court in seisin seems to have lost sight of such salutary principle.

9. Taking into account the law laid down by the apex Court and this Court as adverted to above, to sub serve the ends of justice, this Court is persuaded to interfere with the impugned order and accordingly the direction to impose cash security of Rs.5,000/- (rupees five thousand) vide impugned order dated 20.10.2022 at Annexure-1 passed by the learned 1st Additional Sessions Judge, Cuttack is set aside. Other conditions remain unaltered.

10. Accordingly, the CRLMA stands disposed of.

11. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge