

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2840 of 2021

Mayadhar Nayak

....

Petitioner

Mr. Pratap Chandra Mishra, Advocate

-versus-

The State of Orissa

....

Opposite Parties

Mr. S.S. Pradhan, AGA

CORAM:

JUSTICE SAVITRI RATHO

Order No.

ORDER

21.02.2022

03.

The matter is taken up through hybrid mode.

Mr. Pratap Chandra Mishra, learned counsel for the petitioner submits that as per the direction of this Court on 18.01.2022 passed by this Court, on 02.02.2022, he has already filed the certified copy of the order dated 16.09.1992 pursuant to which the petitioner had been released on bail.

As there was no noting regarding filing of document-certified copy, the file was physically checked and it was found that although the certified copy is there in the file, unfortunately the concerned dealing assistant has not thought it necessary to flag mark the same or mention it in the note sheet, for which time was wasted looking for the document.

Registry is directed to call for an explanation from the concerned dealing Assistant and take suitable action against him.

In this application under Section 482 Cr.P.C., the order dated 03.03.2005 passed by the learned J.M.F.C., Jajpur Road in G.R. Case No. 185 of 1992 arising out of Tomka P.S. Case No. 27(5)92 of 1992, issuing N.B.W. of arrest against the petitioner has been challenged.

It appears from a perusal of the record that the petitioner had been released on bail on 16.09.1992 but after filing of charge sheet and taking of cognizance of offences punishable under Sections 452, 323, 341/120(b)/34 IPC, NBW of arrest was issued against him due to his non-appearance. Again on 03.03.2005 fresh N.B.W. of arrest has been issued against him.

Mr. S.S. Pradhan, learned Additional Government Advocate vehemently opposed the prayer submitting that there is no illegality in the impugned order and as more than 17 years have elapsed since fresh N.B.W. of arrest has been issued against the petitioner, no indulgence should be shown to him.

Though there is no illegality in the order issuing NBW of arrest against the petitioner but in order to secure the attendance of the petitioner in the trial and as the offences are triable by the learned Magistrate, it is directed that if the petitioner surrenders before the learned J.M.F.C., Jajpur Road in G.R. Case No. 185 of 1992 within a period of four weeks from today and files an application for bail, learned J.M.F.C. shall consider the same in accordance with law on its own merit and dispose of it on the same day.

The CRLMC is disposed of.

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

(Savitri Ratho)
Judge

puspa