

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2881 of 2021

***Bania @ Vicky @ Banamali
Behera***

Petitioner

Mr. R.K. Nayak, Advocate

-versus-

State of Odisha

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
22.03.2022**

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and the learned State Counsel.
3. Being aggrieved by order dated 22.10.2008, by the Learned J.M.F.C., Salipur, Cuttack in G.R. Case No.333 of 2008, directing issuance of NBW, the petitioner has approached this Court in the aforesaid CRLMC.
4. Learned counsel for the petitioner brings to the notice of this Court that other co-accused persons who faced trial since, being acquitted by judgment dated 16.12.2009 passed by the learned Adhoc Additional Sessions Judge Fast Track Court-1, Cuttack.

5. The petitioner is also placed reliance on the judgement of this Court reported in **2016 (I) ILR Cuttack 491**, wherein it has been held, if the co-accused similarly circumstanced has been acquitted continuance of the criminal proceeding against an absconding co-accused would be an exercise in futility.

6. Taking note of the submissions of the learned counsel for the petitioner that he was ignorant about the impugned order dated 22.02.2010 issuing N.B.W. and of the judgment of this Court referred to above, in the interest of justice it is directed that if the petitioner surrenders before the Court in seisin of the matter within a period of three weeks hence and moves for bail, the same shall be considered and the learned Court shall release the petitioner on bail if the petitioner's custody is not warranted in any other case on such terms conditions deemed just and proper with the additional stipulation that he shall appear on each day to which the case is posted.

7. The CRLMC thus stands disposed of and impugned order dated 22.10.2008 relating to the petitioner is accordingly set-aside.

8. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Santoshi