

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2930 OF 2021

Prasanta Sahu @ Prasanta Kumar Sahu

..... *Petitioner*
Mr. Basudev Pujari, Adv.

-versus-

State of Odisha

..... *Opposite Party*
Mr. D.Mund, AGA

CORAM:
JUSTICE V. NARASINGH

ORDER
31.03.2022

Order No.

01.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. B. Pujari learned counsel for the petitioner and Mr. D. Mund, learned Additional Government Advocate for the State.
3. Being aggrieved by the order dtd. 25.02.2020 passed by the learned J.M.F.C., Kodala stated to be in G.R. Case No. 249 of 2019 arising out of Polasara P.S. Case No. 168 of 2019 directing issuance of NBW of arrest against the present petitioner. The present CRLMC has been filed.
4. In Paragraph-3 of the present CRLMC, the order passed by this Court dtd.14.02.2020 in ABLAPL No. 12691 of 2019 has been quoted,

5. In the said ABLAPL, the present petitioner was the petitioner No.1.

6. This Court while disposing of the ABLAPL referred to above specifically directed thus,

“Hence, this Court directs that in the event of arrest of the petitioner in connection with the aforesaid case, he be released on bail by the Officer effecting arrest on such terms and conditions as deemed just and proper including the condition that the petitioner shall cooperate with the investigation” .

7. It is stated by the learned counsel for the petitioner that since the petitioner was never taken into custody, in the direction passed by the learned Magistrate in issuing the NBW, on the prayer of the I.O. is ex-facie illegal.

8. On a conspectus of materials on record, this Court is of the considered opinion that in view of the order passed in ABLAPL No. 12691 of 2019 vis-à-vis the petitioner referred to above N.B.W of arrest could not have been sought for by the I.O and such exercise is ex-facie untenable. Hence, the order dtd. 25.02.2020 directing the issuance of NBW of the present petitioner is set aside.

9. It is directed that on surrendering the petitioner shall be released on bail in G.R. Case No. 249 of 2019 arising out of Polasara P.S. Case No. 168 of 2019, pending on the filed of Learned J.M.F.C., Kodala, on such terms to be fixed by the learned Court in seisin of the matter.

10. Learned counsel for the petitioner undertakes to submit a Photostat copy of ABLAPL No. 12691 of 2019, the same be kept on record.
11. With such direction, the CRLMC stands disposed of.
12. Urgent certified copy of this order be granted as per rule.

Balaram

*(V.Narasingh)
Judge*

