



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.222 of 2025

**Santosh @ Sagar Panda @
Santosh Kumar Panda**

.... **Petitioner**
Mrs.Ashwariya
Dash, Advocate

-versus-

State of Odisha

.... **Opp. Party**
Mr.Bibekananda
Nayak, AGA

CORAM:

JUSTICE SIBO SANKAR MISHRA

**Order
No.**

**ORDER
10.04.2025**

02.

1. The petitioner is one of the accused besides six others in the F.I.R. in connection with Ranpur P.S. Case No.67 of 2018 corresponding to G.R. Case No.99(B) of 2018 pending in the Court of the learned Civil Judge (Junior Division)-cum-J.M.F.C., Ranpur.

2. The petitioner along with three others have been absconding. However, three of the accused persons out of seven were apprehended. The charge sheet was filed qua them on 02.08.2016 and they were subjected to the trial. The learned Assistant Sessions Judge (Women's Court), Nayagarh in ST Case No.252 of 2018



vide judgment dated 11.08.2022 recorded acquittal in favour of three accused persons, who have faced the trial. Since the petitioner and the other accused persons were absconding, subsequently, the supplementary charge sheet was filed on 31.03.2021 against them for the alleged commission of the offence punishable under Section 395 of the IPC r/w Sections 25/27 of the Arms Act r/w Sections 4/5 of the Explosive Substances Act, 1908.

3. The allegation against the petitioner is that on 06.04.2018, the informant, who was the in-charge Assistant Manager of the Odisha Gramya Bank, Sarangadharpur, District- Nayagarh reported at the P.S. that he was in-charge of the Odisha Gramya Bank, Sarangadharpur Branch from 04.04.2018. On 06.04.2018, he came to the bank. At about 1 P.M., he was in his chamber and saw some persons inside the Branch. Out of them, one person entered into his chamber and showed a pistol to him and forcibly took him from his chamber to the strong room. He found another four persons were also present inside the branch and terrorizing all the staff. They assaulted to the outsourcing staff Pradipta Kumar Bidhara by means of blow, resulting bleeding injury on his nose and mouth. The accused persons showed pistol aiming at the informant and threatened to kill him, if he will not hand over the vault key. Out of fear, he



gave the key of the vault and they took away cash of Rs.80,000/- and gold pocket, which was given by the borrowers against loan. Hence, the F.I.R.

4. The petitioner has been absconding in the present case and the N.B.W. has been issued by the trial Court vide order dated 22.06.2024.

5. Learned counsel for the petitioner, relying upon the findings of the learned Assistant Sessions Judge (Women's Court), Nayagarh in ST Case No.252 of 2018 in the judgment dated 11.08.2022 acquitting three accused persons, submits that subjecting the petitioner to the trial for the offence punishable under Section 395 of the IPC would be a futile exercise. She has taken me to the findings returned by the learned trial Court, which reads as under:

"In this case identity of the accused persons is not proved, identity of the seized properties is not establish, there is no evidence to prove that the seized property are stolen property. Also the seizure made from the accused persons is not prove the said CD vide MO-I is not utilised by the prosecution to link the same with the accused persons. The seized gold ornaments, the cash and the CPU in this case is not proved to be stolen property or not proved as the property of the said bank. Though during the investigation the informant has submitted to the IO that some SB cheque book bearing Sl.No. 770751 to Sl. No. 771250 has been taken away, the FIR vide Ext. 1 statement U/s- 161 CrPC and the evidence of the informant and other witnesses are completely silent in this regard. Further, when the recovery of the articles like gold ornaments, cash and CPU is said to be made on the basis of the statement of the respective accused persons recorded U/s- 27 Indian Evidence Act, the witnesses to the said statements



have not whispered a single word about the same. Also the witnesses to the seizure made in this case from the accused persons have not stated a single word about the said seizure from the said accused persons. The seizure of the gold ornaments and cash is said to be made from the house of accused Bishnu Charan Jena @ Tulu but there is no specific evidence from which room of the said house it was seized and also there is nothing to show about the ownership of the said house. That apart, it is forthcoming that other adult members were present in that house when the said seizure was effected. Therefore it cannot be said that the said seizure is made from the exclusive and conscious possession of the said accused."

6. Learned counsel for the petitioner has relied upon the judgment in the case of **Arjuna Das @ Arjuni Das and another vs. State of Orissa**, reported in **2011 SCC OnLine Ori 363**. Paragraphs-5 & 6 of the said judgment are reproduced under:

"5. perused the judgment dated 13.4.2009 passed by the learned Addl. Sessions Judge, Bhadrak in S.T. No. 16 of 2009 and in paragraph-7 of the said judgment, learned Addl. Sessions Judge has noted that while the alleged offence took place on 4.9.1994 under sections 147/ 148/ 427/ 367/ 280/149, I.P.C., more than fifteen years have been lapsed by the time of the Trial Court judgment. All the prosecution witnesses stated that they do not remember anything about the case and they have also no grievance against the accused persons. In the absence of the evidence from any of the witnesses and whispering anything implicating any of the accused persons, the prosecution has failed to prove its case. Accordingly, the accused persons were acquitted from all charges under section 235(1) Cr. P.C.

6. After hearing the learned Counsel for both the parties and on perusing the judgment in S.T. No. 16 of 2009 as well as the evidence of the said case, I am of the considered view that the continuation of the trial against the accused-petitioners would serve no real effective purpose."



7. I have carefully gone through the evidence placed on record as well as the judgment of the learned Assistant Sessions Judge (Women's Court), Nayagarh dated 11.08.2022 in ST Case No.252 of 2018.

8. It is apparent on record that in the present case, besides three persons, others have been absconding. Three accused persons have faced the trial and they have been acquitted on technical ground. The allegations in the present case against the petitioner are serious in nature. The evidence led by the prosecution vis-à-vis three accused persons, who have faced the trial will not enure to the benefit of the petitioner. The prosecution has to independently lead the evidence in so far as the present petitioner is concerned.

9. Therefore, I am not inclined to quash the entire proceeding relying upon the findings of the learned Assistant Sessions Judge (Women's Court), Nayagarh in ST Case No.252 of 2018 in the judgment dated 11.08.2022.

10. It is inevitable for the petitioner to face the trial. However, the execution of the N.B.W. dated 22.06.2024 issued by the trial Court shall be stayed till the petitioner surrenders/appears before the trial Court and resort to the remedy available to him under



law.

11. Learned counsel for the petitioner, on instruction from the petitioner, submits that, the petitioner shall appear/surrender before the trial Court on or before 30.04.2025 and resort to the remedy available to him under law.

12. It is open for the petitioner to move application before the trial Court seeking grant of regular bail after appearing/surrendering before the trial Court on the ground that the co-accused persons have been acquitted.

13. The case is emanating from the F.I.R. registered on 06.04.2008. Therefore, it is expected that the learned trial Court shall do well to see that the trial of the present case is concluded as expeditiously as possible.

14. With the aforementioned observation, the CRLMC is disposed of.

(S.S. Mishra)
Judge

Subhasis
Signature Not Verified
Digitally Signed
Signed by: SUBHASIS MOHANTY
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 11-Apr-2025 18:55:29

