



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.1822 of 2025

1) Sunil Kumar Mishra
2) Abhas Kumar Baral

.....

Petitioners

Represented By Adv. –
Mr. Devashis Panda

-versus-

1) State of Odisha
2) The Victim

.....

Opposite Parties

Represented By Adv. –

Mr. U.R. Jena, AGA

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
12.08.2025

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard the learned counsel for the Petitioners as well as learned counsel for the State-Opposite Party No.1. Perused the application as well as the prayer made therein.
3. By filing the present application under Section 528 of B.N.S.S., the Petitioners seek to invoke inherent jurisdiction of this Court to quash order dated 19.09.2024 passed by the learned S.D.J.M., Dhankanal in G.R. Case No.928 of 2014, which corresponds to Dhenkanal Town P.S. Case No.218 dated 05.09.2014.
4. By virtue of the impugned order, learned S.D.J.M., Dhankanal has issued non-bailable warrant of arrest against the Petitioners.



5. Learned counsel for the Petitioners, at the outset, contended that initially F.I.R. was lodged on 05.09.2014 making allegation against three accused persons including the present Petitioners for commission of offences punishable under Section 341/294/509/354(B)/376(D)/506 of I.P.C. He further contended that in the meantime one of the co-accused, namely, Pradeep Kumar Dash faced the trial in C.T. (Sessions) Case No.204/2024/23/2024 in the court of learned Ad-hoc Additional Sessions Judge, Fast Track Special Court, Dhenkanal. He further submitted that by virtue of judgment dated 7th February, 2025, the said accused-Pradeep Kumar Dash has been acquitted by the learned trial court. While acquitting the above named accused-Pradeep Kumar Dash, learned trial court has stated in paragraph-13 of the judgment that the evidence of P.W.7-Victim contains nothing incriminating against the accused and that the victim has deposed on oath that she did not know the accused persons. Moreover, the learned trial court has also observed that the P.W.9-the Doctor, has also provided no evidence to support the prosecution case and that the seizure-witnesses have failed to say the circumstance of seizure and details of the seized articles. Admittedly, no report has been received by the court with regard to the biological sample which was sent for examination to the SFSL, Rasulgarh, Bhubaneswar for chemical examination. With the aforesaid observation, the learned trial court has acquitted the accused-Pradeep Kumar Dash.

6. Learned counsel for the State, on the other hand, opposed the prayer made in the present application on the ground of



gravity and seriousness of the allegation as well as the heinousness of the crime. He further submitted that the Petitioners have approached this Court against the order issuing N.B.W. against them. He further contended that it appears that the Petitioners did not appear before the trial court, as a result of which, the trial court split up the case against accused-Pradeep Kumar Dash. Referring to the conduct of the Petitioners, learned counsel for the State contended that the impugned order issuing N.B.W. of arrest does not call for any interference by this Court at this stage.

7. Having heard the learned counsels appearing for respective parties and on a careful examination of the background facts as well as the subsequent development that has been taken place in the meantime, this Court directs the Petitioners to surrender in the aforesaid case in the first hour before the court of the learned S.D.J.M., Dhenkanal within four weeks hence and make a motion for bail. In such event, the learned S.D.J.M., Dhenkanal shall consider and dispose of the bail application of the Petitioners strictly on the basis of the materials on record in the first hour. In case of rejection of the bail application, the Petitioners may move for bail before the higher forum in the second hour. On such event, the higher forum shall consider and dispose of the bail application of the Petitioners on the same day strictly on the basis of the materials on record by maintaining the principles of parity, if applicable. While considering the bail application of the Petitioners, the learned trial courts shall take



into consideration the observation made hereinabove.

8. Case Diary be made available to the concerned courts. Records be transmitted to the higher forum at the cost of the Petitioners, if applied for.

Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Debasis