

(2022) 02 OHC CK 0034
In the Orissa High Court
Case No : CRLREV No.29 Of 2022

Joseph Kandhapan

APPELLANT

Vs

State of Odisha

RESPONDENT

Date of Decision : 02-02-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 167(2), 397, 401, 482
Narcotics Drugs and Psychotropic Substances Act, 1985 — Section 36A(4)

Citation : (2022) 02 OHC CK 0034

Hon'ble Judges : S.K. Panigrahi, J

Bench : Single Bench

Advocate : S.P. Dash, M.K. Mohanty

Final Decision : Dismissed

Judgement

S.K. Panigrahi, J

1. The matter is taken up through video conferencing mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. This is an application under Sections 397 and 401 read with Section 482 of the Cr.P.C.
4. In this criminal revision, the petitioner challenges the order dated 07.12.2021, arising out of Boriguma P.S. Case No.91 of 2018 corresponding to T.R. Case No.23 of 2018 pending in the court of learned Sessions Judge-cum-Special Judge, Koraput at Jeypore rejection his bail petition under Section 167(2) of the Cr.P.C.
5. Learned counsel for the petitioner submits that since the charge-sheet has been filed after the statutory period, he has a right to the benefit of default bail as has been enshrined in the Section 36-A(4) of the NDPS Act read

with Section 167(2) of the Cr.P.C. He further submits that the charge-sheet has been filed within a period of 180 days without serving a notice on the petitioner. Moreover, similarly situated persons have been granted default bail, whereas the petitioner has been discriminated. Therefore, he prays that the impugned order may be quashed.

6. It is seen from the record that the petitioner was granted interim bail by this Court but he misused the liberty and remained absconding for about three years. Therefore, he is not entitled to bail. Hence, the order dated 07.12.2021 passed by the learned Special Judge, Koraput in T.R. Case No.23 of 2018 is correct and requires no interference.

7. Accordingly, the CRLREV is rejected.

8. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7th January, 2022.

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