

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 60 of 2022

Madhusudan Nayak

....

Petitioner

Mr. P.R. Chhatoi, Advocate

-Versus -

State of Odisha

....

Opposite Party

*Mr. S.K. Mishra,
ASC*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

22.02.2023

Order No.

1.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner seeks to challenge the order dated 30.01.2023 passed by learned S.D.J.M., Banki in Criminal Misc. Case No. 71 of 2022 whereby his application for release of a seized motorcycle was rejected on the ground that proposal for initiation of confiscation proceeding has been submitted before the Authorized Officer-cum-Superintendent of Excise, Cuttack on 29.12.2022 and the seized vehicle has been produced before the Authorized Officer. It is submitted that no confiscation proceeding has been initiated as yet. It is well settled that mere request for initiation of confiscation proceeding is not the same thing as actual initiation of the confiscation proceeding. The bar under Section 72 of the Odisha Excise Act shall operate only when the Authorized Officer is seized with the matter relating to confiscation. The matter is therefore,

remitted to learned SDJM., Banki to cause an enquiry to find out whether any confiscation proceeding has actually been initiated in respect of the seized vehicle and to proceed thereafter in accordance with law basing on the result of such enquiry.

4. The Criminal Revision is disposed of accordingly.

5. Urgent certified copy of this order be granted on proper application.

(Sashikanta Mishra)
Judge

B.C. Tudu

