

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.54 of 2021

Durga Prasad Tandi

....

Petitioner

Mr. Bikram Chandra Ghadei, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

12.05.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).

2. Heard learned counsel for the Petitioner as well as learned counsel for the State.

3. The present revision application has been filed by the Petitioner challenging the order dated 23.12.2020, passed by the J.M.F.C., Khariar, in CrI. Misc. Case No.14 of 2020, arising out of C.T. No.09 of 2020, in connection with of Khariar P.S. Case No.8 of 2020, rejecting the Petition filed by the Petitioner under Section 457 of Cr.P.C. to release the vehicle of the present Petitioner, i.e. Mahindra Scorpio bearing Registration No.CG-13C-1698 bearing Chassis No.MAITA2BSC52M90866 and Engine No.BS54N73076 in his favour.

4. Learned counsel for the Petitioner submits that Petitioner is the registered owner of the Mahindra Scorpio bearing Registration

No.CG-13C-1698. He further submits that the vehicle has been used for the purpose of robbery from the trucks without knowledge and consent and that after its seizure, the condition of the vehicle is being deteriorated day by day due to its exposure to sun and rain. It is further submitted by learned counsel for the Petitioner that similar matter has been decided by a Division Bench of this Court in the case of *Ashis Ranjan Mohanty (Adv.) vs. State of Odisha and others*, reported in **2022 (I) OLR-555**, wherein this Court has issued specific directions which are to be carried out by the concerned courts and police stations for release of the vehicle in favour of the person from whom the vehicle was seized.

5. On the other hand, learned counsel for the State submits that as the alleged Mahindra Scorpio was used for robbery in the truck and the trial of the case has not yet been completed, as such, he prays to reject the revision petition filed by the Petitioner.

6. Considering the facts and circumstances of the case and the submission advanced by the respective parties as well as the case decided by this Court in the case of *Ashis Ranjan Mohanty (Adv.) (supra)*, this Court is of the considered view that no fruitful purpose would be served by keeping the seized vehicle in the custody of the Investigating Agency exposing the same to extreme conditions of sun and rain under the open sky. Further, a perusal of the impugned order reveals that the learned court below while rejecting the application has not taken into consideration the mandate of this Court in *Ashis Rnajan Mohanty (Adv.) (supra)*.

7. Accordingly, the CRLREV is allowed by setting aside the order dated 23.12.2020, passed by the J.M.F.C., Khariar, in Crl. Misc. Case No.14 of 2020, arising out of C.T. No.09 of 2020, in connection with of Khariar P.S. Case No.8 of 2020 and the matter is remanded back with a direction to the trial court to reconsider the matter of the Petitioner for release of the vehicle (Mahindra Scorpio bearing Registration No.CG-13C-1698) in the terms of the judgment cited supra. It is further directed that in the event of release of the vehicle, an undertaking shall also be obtained to the effect that he shall not use the vehicle for any illegal activity and produce the same as and when the court requires the same for the purpose of trial.

8. CRLREV is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge