

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1739 of 2016

Pinki Agarwal

.... Petitioner
Mr. B. Sahoo, Advocate

-Versus-

State of Orissa

.... Opposite Party
Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
07.12.2022

Order
No.
04.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashing of the criminal proceeding in connection with T.R. Case No.13 of 2013 arising out of Khurda Range Excise P.R. No.23/2012-13 pending in the file of learned Additional Sessions Judge, Khurda on the grounds stated therein.
3. A copy of the P.R. is at Annexure-2 and the same is perused by the Court.
4. Learned counsel for the petitioner submits that in connection with an incident dated 3rd March, 2013, an FIR was lodged, later to which Khuntuni P.S. Case No.26(4) was registered under Section 392 IPC. It is further submitted that the vehicle which was carrying iron rods was used for transportation of contraband Ganja while it was on its way and in that connection, again the P.R. was submitted by the Excise Department.

5. It is contended that the petitioner is the owner of the said vehicle and she is not involved in the alleged transportation of contraband substance and for that the driver of the vehicle is responsible who was arrested and released on bail. It is claimed that there has been no compliance of provision of NDPS Act besides the fact that the petitioner is in no way responsible for the alleged transportation of Ganja but then she has been implicated by the Excise Department and thereafter, the learned court below has issued non-bailable warrant of arrest which is pending execution against her. Under the above circumstances, the learned counsel for the petitioner submits that if the Court is not inclined to interfere with the criminal proceeding, the petitioner should at least be directed to surrender before the learned court below and released on bail. Mr. Praharaj, learned counsel for the State opposed the contention of the petitioner.

6. Considering the P.R., the Court finds that commercial quantity of contraband Ganja was recovered and seized from the alleged vehicle which is owned by the petitioner. As to whether the petitioner was responsible for the illicit transportation or not shall have to be examined by the learned court below during enquiry and trial. The submission with regard to non-compliance of provision of the NDPS Act is also to be looked into by the court below at the time of trial.

7. Considering the nature of offence alleged and involvement of the vehicle in the transportation of contraband Ganja, the Court is of the view that the criminal proceeding cannot be quashed. However, considering the limited prayer of the learned counsel for the petitioner that direction may be issued to the petitioner to surrender before the learned court below and released on bail, the

Court is of the further view that such liberty should be granted to her for the fact that the incident is of the year 2013 and she is a lady and apparently, the owner of the vehicle.

8. Accordingly, it is ordered.

9. In the result, CRLMC stand disposed of with a direction to the petitioner to surrender before the learned Additional Sessions Judge, Khurda on or before 22nd December, 2022 in connection with T.R. Case No.13 of 2013 corresponding to Khurda Range Excise P.R. No.23/2012-13 and in the event she surrenders within the stipulated time and applies for bail, the court below shall consider and release her on bail subject to conditions.

10. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

Tudu