

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.221 OF 2022

Subhabanta Ananda

....

Petitioner

Ms.Ajit Kumar Mohanty, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.R.Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.06.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State.
3. The present revision application arises out of an order dated 07.01.2022 passed by the learned Additional Sessions Judge, Gunpur in Misc.Case NO.03 of 2021 which was filed by the Petitioner under section 457 Cr.P.C. for release of the seized vehicle (Bolero SLX) bearing Registration No.OD 07 F 3930.
4. The Prosecution story in brief is that one Alok Kumar Mohapatra, S.I. of Police Ramanaguda Out Post on 08.07.2018 lodged an F.I.R. before the I.I.C., Gunpur P.S. alleging therein that while he along with other Police staff were performing night patrolling found one maroon colour Bolero vehicle proceeded towards Bikrampur Chhak and being signaled the inmates of the vehicle started running towards nearby jungle who subsequently chased by the Police. On being searched it was found ganja inside the

said vehicle and after following due procedure they seized the contraband article as well as the alleged vehicle.

5. It is submitted by the learned counsel for the Petitioner that the vehicle in question was involved in an offence under the N.D.P.S.Act. He further submits that the present Petitioner was no way involved in the case. However, Police has filed a charge sheet wrongly implicating the Petitioner as the Petitioner happens to be the owner of the vehicle. He further submits that the Petitioner has been released on bail by this Court vide order dated 15.04.2019 in BLAPL No.1782 of 2019. It is further submitted by the learned counsel for the Petitioner that in a NDPS case, the confiscation proceeding which starts only after the trial is concluded. He further submits that usually trial in such type of cases take a long time and the seized vehicle remains exposed to the extreme weather condition under the sun and rain as a result of which the condition of the vehicle gets deteriorated day by day. He further submits that while passing the rejection order on 07.01.2022 under Annexure-3, learned court below has not taken into consideration the judgment of this Court in the case of **Basudev Singh-vrs.-State of Odisha** decided on 31.03.2022 in **CRLREV No.34 of 2022**. Therefore he submits that the impugned order is bad in law and needs to be set aside by this Court.

6. Learned Additional Standing Counsel on the other hand submits that the learned court below has considered the application under section 457 Cr.P.C. filed by the Petitioner in detail and the same has been disposed of by passing a reasoned and detailed order which is sought to be challenged by the Petitioner in the present revision application. In such view of the matter learned Additional Standing Counsel submits that the impugned order suffers from no illegality and therefore, the same is not required to be interfered with

by this Court.

7. Having heard learned counsel for both the parties and upon consideration of the materials on record as well as after going through the impugned order, this Court is of the firm view that while disposing of the application under Section 457 Cr.P.C. for release of the vehicle involved in NDPS Act, learned court below has not taken note of the judgment of this Court in **Basudev Singh case (supra)**. Therefore, the application under Section 457 Cr.P.C. is required to be reconsidered in the light of the law laid down by this Court in **Basudev Singh case (supra)**.

8. Therefore, the impugned order dated 07.01.2022 under Annexure-3 is set aside and the matter is remanded to the Court of Additional Sessions Judge, Gunpur to consider the matter afresh in the light of the judgment rendered in the case of **Basudev Singh (supra)** within a period of two months from the date of production of certified copy of this order.

9. With the aforesaid observation, the CRLREV is disposed of.

10. Issue urgent certified copy of this order as per Rules.