

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5080 of 2011

Ajaya Sahoo.

....

Petitioner

-versus-

State of Odisha.

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

08.07.2022

Order No.

08.

1. This matter is taken up through Hybrid mode.
2. The petitioner in this application under Section 482 of the Code of Criminal Procedure (for short "Cr.P.C.") has prayed for quashing of the order dated 07.09.2011 passed by the learned S.D.J.M., Dhenkanal in 2(a) C.C. Case No.44 of 2011 taking cognizance of the offence under Section 47(a) of the Bihar & Orissa Excise Act.
3. Heard the learned counsel for the petitioner and the learned counsel for the State.
4. As it appears, the petitioner seeks for quashment of the impugned order of cognizance on the ground that the case was initiated against him on the basis of false and concocted

allegations, inasmuch as when he sought for release of his vehicle under Section 457 of Cr.P.C. by filing a petition on 25.03.2011 which was rejected on the ground that the same stated to have not been seized in any case, a false case was initiated against the petitioner vide P.R. No.30 of 2010-11 by the Excise Officer at a belated stage. However, as the vehicle number, for which release was sought for, the same being not tallied to have been seized in connection with any case, as contended by the learned APP, the Court below declined to release the said vehicle having not been seized. Photocopy of the P.R. registered reveals that the P.R. was drawn vide No.30/2010-11 alleging the incident on 10.09.2010 at about 7 a.m. No doubt, P.R. was not submitted to the Court while the matter was investigated nor the preliminary P.R. was filed. But, later on the P.R. has been filed against the petitioner.

5. From the aforesaid fact, as it appears, when the petitioner was not apprehended on the very date the seizure was made, no P.R. was immediately forwarded to the Court, but later on, after conducting investigation the P.R. having been filed, pursuant to which the case having been registered, the contention advance by the learned counsel for the petitioner that the aforesaid allegation has been made against the petitioner is false and concocted for belated filing of the P.R. appears to be misconceived and without any substance.

7. Therefore, this CRLMC filed challenging the impugned order being devoid of merit stands dismissed.

8. However, since it is stated by the learned counsel for the petitioner that the petitioner is not on bail and now he is ready and willing to appear before the Court below and move for bail, this Court directs that if the petitioner surrenders and move for bail in the aforesaid case before the Court in seisin over the matter within six weeks hence, the Court in seisin over the matter shall allow him to go on bail on such terms and conditions as deemed just and proper, provided he is not indicted in any other graver offence.

9. A copy of this order be communicated to the Court below forthwith.

(S. Pujahari)
Judge

MRS