

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.245 of 2021

Bikash Digal

....

Petitioner

Mr. Amulya Ratna Panda, 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.

03

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 08.03.2021, passed by the learned District & Sessions Judge-cum-Special Judge, Kandhamal at Phulbani, in Criminal Misc. Case No.4 of 2021, arising out of 2(a) C.C. Case No.3 of 2020, rejecting the Petition filed by the Petitioner under Section 457 of Cr.P.C. in not inclined to release the vehicle of the present Petitioner, i.e. Auto Rickshaw bearing Registration No.OD-12C-7852.
4. Learned counsel for the Petitioner submits Petitioner is the registered owner of the Auto Rickshaw bearing Registration No.OD-12C-7852 and after its seizure, the vehicle is being damaged day by

day due to expose to sun and rain. It is further submitted by learned counsel for the Petitioner that similar case has been decided by this Court in the case of ***Basudev Singh vs. State of Odisha (CRLREV No.34 of 2022, decided on 31.03.2022)***, wherein this Court has directed for interim 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 Auto Rickshaw was used in illegal transportation of contraband ganja 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 ***Basudev Singh (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 sun and rain in the open sky.

7. Accordingly, the CRLREV is allowed by setting aside the order dated 08.03.2021, passed by the learned District & Sessions Judge-cum-Special Judge, Kandhamal at Phulbani, in Criminal Misc. Case No.4 of 2021, arising out of 2(a) C.C. Case No.3 of 2020 and the seized vehicle, i.e. Auto Rickshaw bearing Registration No.OD-12C-7852 is directed to be interim released in favour of the person from whom seized on proper identification. It is also directed that an undertaking shall also be obtained while releasing the vehicle

in question 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

U.K.Sahoo

