

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV No. 305 of 2022

IIFL Finance Ltd., Cuttack

....

Petitioner

Mr. A. K. Chaudhury,
Advocate

-Versus -

State of Odisha

Opposite Party

....

Mr. P. Tripathy,
Additional Standing Counsel

CORAM:
JUSTICE SASHIKANTA MISHRA

ORDER
03.11.2022

Order No.
5.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is aggrieved by order dated 24.05.2022 passed by learned S.D.J.M.(S), Cuttack in CRLMC No.43 of 2021 whereby the application for release of the seized gold jewellery in its favour was rejected. The petitioner is a Non-Banking Financial Institution which claims to have collected gold ornaments from different beneficiaries as mortgage for the purpose of giving loan. It is alleged that substantial amount of such gold was illegally transferred to the account of another Company, which led to registration of the criminal case in question. The petitioner-Company filed an application under Section 457 Cr.P.C. through its Authorized Officer seeking interim release of the gold ornaments which, as already stated came to be rejected. Perusal of the impugned order reveals that learned court below rejected the

application mainly on the ground that investigation was in progress as also the fact that the beneficiaries are required to identify the gold ornaments, which needs to be matched with the data base of both the gold loan branches of the Company to segregate them and to ascertain the original owner thereof. Such order was passed on 24.05.2022. On 28.05.2022, the ACP IUCAW, Cuttack submitted a further report to learned S.D.J.M.(S), Cuttack, a copy of which has been enclosed as Annexure-2, clearly stating that the cash and jewelries seized are the property of parent IIFL Company (Petitioner) and illegally transferred to Manapuram Finance branch by the accused person. The above, prima facie, shows that the gold was the property of IIFL in the legal sense of the term. Such fact was not within the knowledge of learned S.D.J.M. as the impugned order was passed four days earlier.

4. Having regard to the above, the criminal revision is disposed of by directing learned S.D.J.M. (S), Cuttack to consider the application under Section 457 Cr.P.C. filed by the petitioner afresh, taking into account the further report submitted by the ACP on 28.05.2022. While considering such application, learned S.D.J.M. shall also keep in mind the ratio decided in the case of ***Sunderbhai Amabalal Desai vs. State of Gujarat***, reported in (2003) 24 OCR (SC) 444. The matter shall be disposed of within a period of four weeks from the date of production of certified copy of this order.

5. The CRLREV is disposed of.

(Sashikanta Mishra)
Judge