

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2307 of 2022

Kanhu Charan Pradhan

Petitioner

Mr. S. Dwibedi, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
12.09.2022

Order
No.

01. 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 assailing the impugned order dated 30th June, 2022 passed by learned Additional Sessions Judge, Nayagarh in Criminal Misc. Case No.5/34 of 2021 in imposing bank guarantee besides the property surety for an amount of Rs.4 lac on the grounds stated therein.
3. Learned counsel for the petitioner submits that such a condition imposed by learned court below directing petitioner to furnish a bank guarantee for an amount of Rs.4 lac is on the higher side and therefore, same should be substituted by property surety in the interest of justice. It is further submitted that the two vehicles such as a Range Rover EVOQUE SD-4 car bearing registration

No.OD-16G-9339 having Engine No.DZ7840241288224DT and Chassis No.SALVA2AD0CH606624 and HYUNDAI CRETA bearing registration No.OD-02BG-7696 having Engine No.D4FCKM877910 and Chassis No.MALC181RLKM628793 are lying in the premises of the PS exposed to extreme climatic conditions and considering the decisions of the Apex Court in **Sunderbhai Ambalal Desai Vrs. State of Gujarat**: (2002) 10 SCC 283 and this Court's judgment in **Ashis Ranjan Mohanty Vrs. State of Odisha and Ors.** decided in W.P.(C) No.31622 of 2021 and disposed of on 31st January, 2022, it should immediately be released in custody of the petitioner without bank guarantee. The learned counsel for the State on the other hand submits that the condition is not onerous having regard to the valuation of one of vehicles assessed at Rs.25 lac by the MVI and therefore, the same should not be disturbed.

4. The Court perused the impugned order i.e. Annexure-1. No doubt, the learned Assistant Sessions Judge, Nayagarh released the vehicles in favour of the petitioner but imposed twin conditions of property surety and bank guarantee to the extent of Rs.4 lac and imposed other conditions as well. The said condition of bank guarantee is under challenge in the present case on the ground that the petitioner is unable to arrange the same in compliance thereof. Considering the nature of allegations whereupon the criminal action was launched and the fact that the vehicles involved and seized by the local police are lying in the premises of the PS since last two years, the Court is of the view that the condition, such as, the bank guarantee should be deleted so as to enable the petitioner to take custody of both the vehicles by furnishing a property surety to the tune of Rs.4 lac. In other words, the Court is of the opinion that the petitioner should only be demanded a property surety for the amount instead exempting him from furnishing a bank guarantee as

has been ordered by the learned Assistant Sessions Judge, Nayagarh which would serve the purpose and meet the ends of justice. The above direction is keeping in view the settled position of law as enunciated by the Apex Court in **Sunderbhai Ambalal Desai** case (supra) and also decision of **Ashis Ranjan Mohanty** ibid with the conclusion that unless the condition is moderated to ensure release of the vehicles, the same would be damaged subjecting the petitioner to substantial loss.

5. Accordingly, it is ordered.

6. In the result, CRLMC stands allowed to the extent indicated above. Consequently, the petitioner is directed to furnish a property surety to the tune of Rs.4 lac in place of bank guarantee for the purpose of taking custody of the alleged vehicles in connection with S.T. Case No.102 of 2021 corresponding to Chandpur P.S. Case No.37 of 2020 besides fulfillment of other conditions as already directed by the court below.

7. An urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge