

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2619 of 2022

Ameer Kumar Panda

....

Petitioner

Mr. D.R.Bhokta, Advocate
Mr. N.Afreen, Advocate, Mr. S.K.Das, Advocate
and Mr. S.R.Panda, Advocate

-Versus-

State of Odisha

....

Opposite Parties

Mr. T.K.Praharaj, SC
Mrs. Sonita Biswal, Advocate for O.P.No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
17.10.2022

Order No.

01. 1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioner for modification of the impugned order i.e. Anneuxre-6 to the extent of furnishing a property security of Rs.3,00,000/- apart from executing an indemnity bond as has been directed by the court of learned SDJM, Deogarh in CMC No.41 of 2021 on the grounds stated therein.
3. Learned counsel for the petitioner submits that he had approached this Court in CRLMC No. 1878 of 2021 which was disposed of by order dated 17th December, 2021 with a direction that the learned court below shall quantify the security which would be adequate to meet compensation that may ultimately be awarded in the claim case

and in the event, it is not unable to do so to direct the owner to submit security to the extent of the present market value of the vehicle.

4. Learned counsel for the petitioner submits that accordingly pursuant to the directions of this Court in CRLMC No. 1878 of 2021, the petitioner approached the learned court below which, however, by the impugned order under Annexure-6 directed him to execute and an indemnity bond of Rs.3,00,000/- with one solvent surety for the like amount and cash security of Rs. 3,00,000/- subject to the other conditions. It is submitted that demanding a cash security of Rs. 3,00,000/- is an onerous condition which should be waived in the interest of justice as the petitioner is prepared to submit property security instead for the like amount besides indemnity bond with solvent surety as has been directed by the learned SDJM, Deogarh.

5. Mr. Praharaj, learned counsel for the State on the other hand submits that the learned court below did not commit any wrong for directing the petitioner to deposit a cash security of Rs. 3,00,000/- and while claiming so, he refers to the order of this Court in CRLMC No. 1878 of 2021.

6. The purpose of such a direction in CRLMC No. 1878 of 2021 is to ensure release of the vehicle either by quantifying the compensation by the court below or in case it is incapable of or unable to ascertain the quantum of compensation then to demand a security meeting the market value the vehicle in question. In the present case, as per the report of the RTO, a copy of which is at Annexure-5, the market price of the vehicle bearing Regd. No. OR04F-1425 is pegged at Rs. 3,00,000/- referring to which the learned court below directed and demanded such security but with an additional amount of Rs.3,00,000/- as cash security payable by the petitioner, who happens to be the owner of the alleged vehicle.

7. Considering the order of this Court in CRLMC No. 1878 of 2021 and the fact that the learned court below has accepted the market price vis-à-vis the vehicle with reference to a report i.e. Annexure-5, the Court is of the view that apart from demanding an indemnity bond of an amount of Rs.3,00,000/- purpose would be served if the petitioner is directed to submit property security of Rs.3,00,000/- instead deleting the cash security for the same amount. The Court is of the opinion that insisting upon the petitioner to deposit a cash security of Rs.3,00,000/- while releasing the vehicle would virtually amount to denial of its custody despite an order of this Court in CRLMC No. 1878 of 2021.

8. In view of the above, the Court is inclined to direct the petitioner to submit property security of Rs.3,00,000/- in place of cash security for the same amount besides other conditions to remain intact.

9. Accordingly, it is ordered.

10. In the result, CRLMC stands disposed of with a direction to the learned court of SDJM, Deogarh to accept property security of Rs.3,00,000/- from the petitioner besides receiving an indemnity bond with one solvent surety for the like amount and on satisfaction of the other conditions fulfilled to release the vehicle bearing Regd. No. OR04F-1425 in his favour without further delay.

11. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge