

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 454 of 2022

Gobinda Mahana

...

Petitioner

Mr. M. Balakrishna Rao, Advocate

-Versus -

State of Odisha

....

Opposite Party

Mr. S.Tripathy, Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

17.11.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard Mr. M.Balakrishna Rao, learned counsel for the petitioner and Mr. S. Tripathy, learned Additional Standing Counsel for the State.
3. The petitioner claims to be the owner of a tipper bearing Registration No. OR-14T-0551 which is said to have been involved in an accident that took place on 25.09.2021. A police case, being Bamebari P.S. Case No. 126 of 2021 was registered in connection with such accident under Sections-279/304-A of I.P.C. Corresponding to G.R. Case No. 554 of 2021 of the Court of the learned J.M.F.C., Barbil. The petitioner further claims that the other vehicle involved in the accident has been treated as the offending vehicle and its driver has been charge-sheeted. As such, the petitioner's vehicle is free to be released. He filed an application under Section-457 of the Cr.P.C. before the learned J.M.F.C., Barbil, who rejected the same by relying upon a judgment of this Court passed in *Ramakrushna Mahasuar Vrs. State of Odisha* reported in (2021) 81 OCR 635 on the ground that the vehicle in question did not had 3rd Party risk covering insurance at the relevant time.
4. Mr. M.Balakrishna Rao, learned counsel for the petitioner has

referred to the judgment passed by this Court in *Nabaratna @ Nabaratan Agrawal Versus State of Odisha and Batch* reported in *2021 Supplementary OLR-83* wherein, the provisions of Rule-6 of the Orissa Motor Vehicles Accident Claims Tribunal Rules has been interpreted and certain principles has been laid down in the matter of release of uninsured vehicle pending disposal of criminal Case at paragraph-16 thereof. The case of *Ramakrushna Mahasuar* have also been referred to the said case. It is submitted by Mr. Rao that the present case is squarely covered by the ratio of *Nabaratna @ Nabaratan Agrawal* (Supra) in as much as no security was asked for from the petitioner in terms of Rule-6 of the 2018 Rules before rejecting the prayer for release of the vehicle.

5. Reading of the impugned order reveals that the learned Court below has referred to observations of this Court in *Ramakrushna Mahasuar* (supra) only and referred to Rule-6 of the 2018 Rules to reject the application. There is nothing to show as to of the petitioner was asked to furnish adequate security in terms of Rule-6 of the 2018 Rules. In such view of the matter, this Court finds force in the submissions of Mr. Rao that the learned Court below has not correctly interpreted the Provisions of Rule-6 of the 2018 Rules or taken note of the ratio of the case of *Nabaratna @ Nabaratan Agrawal* (Supra). In such view of the matter, this Court is inclined to allow the prayer of the petitioner.

6. The impugned order is set aside. Learned Court below is directed to pass orders on the petition filed by the petitioner under Section 457 of the Cr.P.C. afresh taking into consideration the provisions of Rule-6 of the 2018 Rules relating to furnishing of security by the petitioner. Learned Court below is directed to dispose of the case as soon as possible preferably, within a period of four weeks.

7. The CRLREV is disposed of.
8. Urgent certified copy of this order be granted as per rules.

Balaram

(Sashikanta Mishra)
Judge

