

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2744 of 2022

Chittaranjan Bhoi

Petitioner

Mr. S.R. Mohapatra, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

24.11.2022

Order
No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. Prayer in the present case is for release of a two-wheeler bearing registration No.OD-02-AY-0362 seized in connection with T.R. Case No.83 of 2022 which has been denied by the learned Special court while disposing of CMC No.61 of 2022 vide impugned order i.e. Annexure-2 on the grounds inter alia that the learned Sessions Judge-cum-Special Judge, Khurda at Bhubaneswar failed to appreciate the fact that the petitioner is the owner of the said vehicle and has not been chargesheeted by the local police.

3. Mr. Mohanty, leaned counsel for the petitioner refers to the FIR, a copy of which is at Annexure-1 and the chargesheet i.e. Annexure-3 and contends that the learned Special court by order dated 11th August, 2022 in CMC No.61 of 2022 refused to release of the vehicle in question in favour of the petitioner without any justification.

4. In fact, the scooter was found carrying contraband substance i.e. ganja of 50 kgs. kept in two polythene bags and was intercepted by the local police, whereafter, it was seized in

connection with the case. Mr. Mohapatra, learned counsel for the petitioners submits that the petitioner is the owner and not a chargesheeted accused and he approached the learned Special court for release of the scooter which was declined under the impugned order i.e. Annexure-2 which is unjustified and cannot be sustained in law. Mr. Praharaj, learned counsel for the State submits that the vehicle was involved in the illicit transpiration of commercial contraband Ganja and justifies the impugned order i.e. Annexure-2.

5. It is not disputed that the petitioner is not an accused. In fact, it is made to understand that two others have been chargesheeted for the alleged transportation of contraband Ganja in the alleged scooter.

6. In so far as Annexure-2 is concerned, the learned Special court rejected the request for release and custody of the vehicle in favour of the petitioner on the ground that it may still be required for the purpose of investigation.

7. However, having regard to the fact that the investigation is concluded as in the meantime chargesheet stands filed i.e. Annexure-3 and that apart, the petitioner is not an accused for the alleged transportation of contraband Ganja and he being the claimant as its owner, the Court is of the view that the vehicle which is seized in connection with T.R. Case No.83 of 2022 should be immediately released to his custody on verification of ownership documents and conditions as would be imposed by the learned Special court. In fact, law is well settled that vehicle or any such articles so seized lying in the custody of the police should not be retained for long and must be disposed of at the earliest or else its condition would deteriorate being exposed to sun and rain and vagaries of the climate. In the present case, there is no justification to detain the seized scooter since the investigation is closed and therefore, the

court reiterates that the same should be immediately handed over to its rightful claimant.

8. Accordingly, it is ordered.

9. In the result, CRLMC stands allowed. Consequently the impugned order under Anenxure-2 passed by the learned Sessions Judge-cum-Special Judge, Khurda at Bhubaneswar in CMC No.61 of 2022 is hereby set aside with a consequential direction to the court to ensure immediate release of the scooter bearing registration No.OD-02-AY-0362 in favour of the petitioner subject to verification of the ownership documents and conditions as would be necessary in the facts and circumstances of the case.

10. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

TUDU

