

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.367 of 2021

Paramananda Nayak

.... ***Petitioner***
Mr. A. R. Panda, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. K.K. Nayak, A.S.C.

**CORAM:
JUSTICE A.K. MOHAPATRA**

ORDER
21.04.2022

Order No.

05.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the petitioner as well as learned counsel for the State. Perused the records.
3. The petitioner assails the order dated 19.08.2021 passed by the learned District and Sessions Judge-cum-Special Judge, Mayurbhanj at Baripada in C.M.C. No.43 of 2021 arising out of 2(a)CC Case No.2 of 2020 framing charge against the accused person under Section 20(b)(ii)(B) of the N.D.P.S. Act rejecting the prayer of the petitioner under Section 457 of the Cr.P.C.
4. It is submitted by learned counsel for the petitioner that the petitioner is the owner of one Motorcycle(Hero Destiny-125) bearing Registration No.OD-11-S-6497, which was seized by the excise staffs with the allegation of transporting of contraband Ganja weighing 2.5 Kgs. It is further submitted that final prosecution report has already been submitted and the petitioner has not been arrayed as an accused. Learned trial court has rejected the application of the

petitioner with the observation that the vehicle is liable for confiscation. It is also submitted that the question of confiscation would arise only after conclusion of trial and in a number of similar situation, the release of the vehicle has been allowed in favour of the registered owner, even though the owner is an accused.

5. The vehicle was seized on 19.08.2021 and final prosecution report was submitted. It is also submitted that the vehicle would be lying exposed to sun and rain and would be likely to be damaged. Copy of the final prosecution report is placed before the Court to show that the petitioner is not an accused in the case.

6. Considering the submissions and the circumstances, the impugned order is set aside and it is directed that the petitioner on filing a fresh application before the learned Sessions Judge-cum-Special Judge, Mayurbhanj at Baripada in the aforesaid case, learned Sessions Judge-cum-Special Judge, Mayurbhanj at Baripada on satisfaction about the ownership of the Motorcycle(Hero Destiny-125) bearing Registration No.OD-11-S-6497, shall release the same in favour of the owner on execution of indemnity bond besides other conditions to be imposed by the said court, as deemed proper.

7. The CRLREV is disposed of accordingly.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge