

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2881 of 2022

Kanhu Charan Pradhan

.... Petitioner
Mr. S. Dwibedi, Advocate

-Versus-

State of Odisha

.... Opposite Party
Mr. Tapas Kumar Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
18.10.2022

Order
No.
01.

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

2. In the instant case, the petitioner has approached this Court for waiver of one of the conditions imposed by the learned J.M.F.C., Ranpur in order dated 13th December, 2021 in CMC No.38 of 2021 so far as is relates to execution of indemnity bond of Rs.70 lac with one property surety for the like amount on the ground that it is excessive and onerous considering the valuation of the vehicles which has been fixed at Rs.25 lac and Rs.8.5 lac as per the report of the MVI, Nayagarh received by the court below by letter dated 26th April, 2022.

3. Learned counsel for the petitioner submits that the same vehicles being involved in another case, its release was directed by order dated 12th September, 2022 in CRLMC No.2307 of 2022, wherein, in place of bank guarantee, this Court directed the

petitioner to furnish property security to the tune of Rs.4 lac which is in connection with S.T. Case No.102 of 2021 corresponding to Chandapur P.S. Case No.96 of 2020. A copy of the said order in CRLMC No.2307 of 2022 is at Annexure-3. Referring to the above order, the learned counsel for the petitioner submits that similar conditions should be imposed and the condition so directed for submission of indemnity bond of Rs.70 lac with property security for the like amount should be dispensed with.

4. Mr. Praharaj, learned counsel for the State submits that the vehicles have been seized in connection with G.R. Case No.362 of 2020 corresponding to Chandapur P.S. Case No.96 of 2020 and in that connection, the learned court below imposed such conditions while directing its release which should not be disturbed.

5. In fact, the learned court below allowed the release of the vehicles by order dated 13th December, 2021 subject to furnishing indemnity bond of Rs.70 lac with one property surety for the like amount which is currently under challenge and the petitioner seeks for modification. In the impugned order, the Court finds that a report was called for from the MVI.

6. The Court is of the view that despite release directed by the court below, the vehicles are still in custody of the PS. In so far as the conditions with a direction to the petitioner to submit indemnity bond of Rs.70 lac vis-à-vis the vehicles for its release is concerned, the Court is of the opinion that it is really onerous and excess considering the fact that a report of the MVI suggested its market value to be at Rs.25 lac and Rs.8.5 lac. The Court is of the opinion

that the instead of demanding indemnity bond of Rs.70 lac, the petitioner should be allowed to furnish property surety which would rather serve the purpose. Instead the petitioner should be directed to submit property surety of Rs.4 lac as has been directed by this Court in CRLMC No.2307 of 2022. The Court is of the humble view that any such condition directing the petitioner to furnish indemnity bond of Rs.70 lac would virtually amount to denying release and therefore, the said condition is required to be waived and accordingly, it is ordered.

7. Consequently, CRLMC stands disposed of. The impugned order under Annexure-1 as modified to the extent indicated above. As a necessary corollary, the petitioner is hereby directed to furnish property security of Rs.4 lac in place of indemnity bond as has been directed in order to ensure release of the vehicles in connection with Chandapur P.S. Case No.96 of 2020 corresponding to G.R. Case No.362 of 2020 pending in the file of learned J.M.F.C., Ranpur subject to fulfillment of other conditions as already directed.

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

(R.K. Pattanaik)
Judge