

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3206 of 2022

Aamir Khan

....

Petitioner

Mr. Davashis Panda, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. T.K.Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

01.12.2022

Order No.

01.
 1. Heard Mr. Panda, learned counsel for the petitioner and Mr. Praharaj, learned counsel for the State.
 2. Instant petition under Section 482 Cr.P.C is filed at the behest of the petitioner assailing the impugned order of 22nd September, 2022 under Annexure-2 whereby an application for a direction to the authorities/departments/service providers to submit the GPS tracking, call details and call recordings in respect of noted cell numbers between the periods, such as, 10th September, 2021 and 11th September, 2021 was rejected by the learned 2nd Additional Sessions Judge, Rourkela.
 3. Mr. Panda, learned counsel for the petitioner submits that such an application was moved before the learned Sessions court for a direction to the authorities/ concerned departments to provide the details as was prayed for but it was not entertained on the ground that the mobile phone of the petitioner was not seized by the police nor it was sent for chemical examination to RFSL, Sambalpur which is

contrary to the claim earlier made. While contending so, Mr. Panda refers to the impugned order dated 22nd September, 2022 to contend that on an earlier occasion, the petitioner had moved an application on 4th March, 2022 before learned SDJM, Panposh for a direction to the IIC Plantsite P.S. and the I.O. to cause production of the mobile phone and the same was allowed and at that stage, it was drawn to the notice of the said court that the mobile had been sent to the RFSL, Sambalpur for chemical examination and in the meantime, the case suffered commitment to the Sessions court and thereafter, on 9th June, 2022, the application was moved to direct the RFSL, Sambalpur to submit the GPS tracking and call records. Under the above circumstances, Mr. Panda learned counsel for the petitioner submits that when such a claim was made before for having sent mobile phone to the RFSL, Sambalpur but later on, before the learned Sessions court, it was contradicted, as a result of which, the impugned order dated 22nd September, 2022 was passed with a conclusion that the material has not been seized in connection with the P.S.

4. Mr. Praharaj, learned counsel for the State on the other hand submits that the learned Sessions court did not commit any error or illegality in disallowing the application moved by the petitioner and was justified in passing the impugned order dated 22nd September, 2022 in the peculiar facts and circumstances of the case and therefore, it should not be interfered with.

5. The Court is of the view that when such a claim was advanced before the learned Sessions court that the mobile phone has not been seized and not even sent for chemical examination to RFSL, Sambalpur, in the event any such exigency arises in future, the petitioner should have the liberty to claim for the call records as a

means of his defence in trial. At present, considering the fact that the learned Sessions court was moved and informed that the mobile phone was not seized and not even sent for any examination to RFSL, Sambalpur, the Court is not inclined to interfere with the impugned order dated 22nd September, 2022.

6. Accordingly it is ordered.

7. In the result, CRLMC stands disposed of with a liberty granted to the petitioner to move the learned court below at a subsequent stage if at all any incriminating material is produced by the prosecution vis-à-vis his involvement and complicity shown and in case any such application so moved by him in connection with S.T. Case No. 64 of 2022 corresponding to Plantsite P.S. Case No 335 of 2021, to call for the call records etc., the learned 2nd Additional Sessions Judge, Rourkela shall pass appropriate order thereon in accordance with law.

8. Urgent certified copy be issued as per rules.

(R.K. Pattanaik)
Judge