

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV No.476 of 2021

MD. Tabul

.... ***Petitioner***
Mr. A.P. Bose, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. Karunakar Gaya, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

09.02.2022

Order No.

02. 1. The matter is taken up through video conferencing mode.
2. This is an application under Section 397 read with Section 401 of the Cr.P.C.
3. Heard learned counsel for the petitioner and learned counsel for the State.
4. The petitioner seeks by way of this criminal revision to quash the order dated 26.10.2021 passed by the learned S.D.J.M., Keonjhar in CMC No.204 of 2021 rejecting his application under Section 457 of the Cr.P.C. for release of his vehicle.
5. The petitioner had filed an application under Section 457 of the Cr.P.C. before the learned SDJM, Keonjhar with a prayer for releasing his vehicle bearing Regd. No.OR-11-E-4337, which was seized in connection with Patna P.S. Case No.63/2021, corresponding to G.R. Case No.721/2021 under Sections 379, 411, 279 of the IPC read with Section 11(a)(d) Prevention of Cruelty to Animal Act, 1969. The offending vehicle was alleged

to have been transporting bullocks and it met with an accident due to the rash and negligent driving of the driver. The learned SDJM, Keonjhar after hearing the parties rejected his prayer for release of the vehicle on 26.10.2021 as the investigation was completed and the petitioner had failed to produce the insurance certificate on the date of occurrence.

6. It appears that the learned SDJM, Keonjhar has not appreciated the ratio decided by the Supreme Court in **Sunder Bhai Ambla Desai v. State of Gujarat**,¹ wherein detailed instruction has been given by the Supreme Court that whatever be the situation, it is of no use to keep such seized vehicles at the police station for a long period. The Supreme Court has further held that it is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time.

7. Keeping in view the ratio decided in the aforesaid case and the facts case, the CRLREV is allowed. The order dated 26.10.2021 passed in C.M.C. No.204 of 2021 is hereby quashed.

8. The learned SDJM, Keonjhar, while directing to release the vehicle in favour of the present petitioner shall impose the following conditions:

¹ (2003) 24 OCR (SC) 444

8. i. the petitioner shall furnish property security to the tune of Rs.50,000/-(rupees fifty thousand) with two sureties each for the like amount to the satisfaction of the learned court below with the condition that the vehicle shall be produced before the court as and when necessary;

8.ii. he shall not transfer or dispose of the vehicle to anyone else and shall not make any change in its body, colour or engine.

8.iii. he shall keep the vehicle insured at all times;

8.iv. he shall not use the vehicle for commission of any offence;

8.v. he shall furnish two photographs of the vehicle before taking delivery of the same;

8.vi. the petitioner shall produce the original registration certificate, insurance paper before the concerned police station which shall be verified properly and true attested copies thereof shall be retained by the I.O./IIC of the concerned police station;

9. The revision application is accordingly disposed of.

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

(S.K. Panigrahi)
Judge

pcd