

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.2397 of 2021

Binod Luhar

....

Petitioner

Mr. Pratap Kumar Nayak, Adv.

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM:
JUSTICE S.K. PANIGRAHI

ORDER
19.01.2022

Order No.

01. 1. This matter is taken up through Video Conferencing mode.
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. In this CRLMC, the petitioner has made a prayer to quash the order dated 22.10.2021 passed by the learned Sessions Judge-cum-Special Judge, Nuapada in C.M.C. No.5 of 2021, arising out of S.A. Case No.2 of 2021 rejecting his application filed under Section 457 of the Cr.P.C. and to release his seized vehicle bearing Registration No.OD-26C-9693 in his favour.
4. Learned counsel for the petitioner submits that the petitioner is the owner of the aforesaid vehicle which is lying at Komna Police Station since the date of seizure i.e. from 13.01.2021 and the condition of the vehicle has been deteriorating day by day due to non-maintenance. He further submits that since the investigation has already been completed and the vehicle is no more required for the purpose of investigation, and the entire documents relating to ownership of the vehicle have already

been filed before the aforesaid court, the vehicle may be released in favour of the petitioner.

5. Learned Additional Standing Counsel for the State submits that admittedly the Petitioner is the owner of the vehicle. He has not been arrayed as an accused in this case. However, the offending vehicle was also seized earlier in connection with Bolangir Sadar P.S. Case No.24 of 2020 for the offence under Sections 21(c)/ 29 of the N.D.P.S. Act on the allegation that the vehicle was used for transporting of coup syrup.

6. Taking into account the fact that the said vehicle is being used repeatedly for the self-same purpose, the learned Sessions Judge-cum-Special Judge, Nuapada refused to release the vehicle in favour of the Petitioner.

7. The legal position with regard to release of vehicle seized in the cases involved under N.D.P.S. Act has been observed in the case of **Jitendra Kumar Digal -vrs.- State of Odisha**¹. The same has been extracted in paragraph 5 of the impugned order wherein the Hon'ble Supreme Court has indicated the importance of knowledge of the petitioner in use of his vehicle in carrying the contrabands. If the material indicates knowledge of the petitioner with regard to use of his vehicle, there is no scope for release of the vehicle in his favour.

8. In the aforesaid context, release of the vehicle in favour of the petitioner shall encourage further transportation of contraband articles and there is every likelihood of misuse of the offending vehicle in near future. Hence, this Court is not

¹ (2021) 81 OCR 625

inclined to interfere with the impugned order and to release the vehicle in favour of the petitioner.

9. However, the learned Sessions Judge-Cum-Special Judge, Nuapada is requested to conclude the trial in the aforesaid case as expeditiously as possible preferably within a period of six months from today. The learned Sessions Judge-Cum-Special Judge, Nuapada is further requested to allow the present petitioner to maintain his seized vehicle while the same is inside the premises of the police station at least once in a week so that the care and caution of the vehicle can be exercised.

10. With the aforesaid observations, this CRLMC is disposed of.

11. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020 and Court's Office Order dated 7th January, 2022.

(S.K. Panigrahi)
Judge

BJ