

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3863 of 2022

Naba Kishore Pradhan

....

Petitioner

Mr. Suryakanta Dwibedi, Advocate

-Versus-

State of Orissa

....

Opposite Party

Mr. Tapas Kumar Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

08.12.2022

Order No.

01.
 1. Heard learned counsel for the respective parties.
 2. The present challenge is to the impugned order dated 18th November, 2022 passed by the learned Additional Sessions Judge, Nayagarh in Criminal Misc. Case No.16/39 of 2022 arising out of S.T. No.89 of 2022 to the extent that the condition to furnish the bank guarantee and property security equal to the amount of indemnity bond of Rs.25,353/- is heavy and onerous and amounts to virtual denial of release of the vehicle seized in connection with the Chandapur P.S. Case No.166 of 2021. Learned counsel for the petitioner submits that though the release of the vehicle bearing registration No.OD-02W-8182 was directed by the court below but the condition has been imposed to furnish bank guarantee and property surety which should be deleted in the interest of justice as the petitioner is not able to comply the same.
 3. Mr. Mohaparta, learned counsel for the State on the other hand justified the impugned order under Anenxure-1 and submits that the alleged vehicle was involved in a case for an offence under Section 302 IPC.
 4. Learned court below has imposed numbers of conditions besides property surety and bank guarantee to be furnished by the

petitioner. It is submitted that such a condition of bank guarantee and property surety is unable to be complied with and if only the condition of indemnity bond is imposed, it would serve the purpose and also in the interest of justice. It is further submitted that the alleged vehicle is validly insured but the condition of indemnity bond of Rs.25,353/- only would suffice, in other words, the twin conditions, such as, bank guarantee and property surety are required to be deepened with.

5. It is settled law that while releasing seized items, if heavy conditions are imposed, it would amount to virtual denial of the relief. As such, in the considered view of the Court, the impugned order under Annexure-1 is required to be modified to the extent suggested.

6. Accordingly it is ordered.

7. Consequently, the CRLMC stands allowed.

8. As a necessary corollary, the impugned order dated 18th November, 2022 passed by the learned Additional Sessions Judge, Nayagarh in Criminal Misc. Case No.16/39 of 2022 is hereby modified to the extent that the petitioner shall now furnish an indent bond for the alleged amount of Rs.25,353/- only and need not to furnish any bank guarantee and property surety as originally directed but with rest of the conditions to remain undisturbed.

9. The CRLMC is disposed of.

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

(R.K. Pattanaik)
Judge