

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2786 of 2021

Manoj Kumar Dalai

....

Petitioner

-versus-

State of Odisha

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

02.08.2022

Order No.

01.

1.This matter is taken up through Hybrid mode.

2.Heard learned counsel for the Petitioner.

3. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 04.08.2021 passed by the learned Addl. Sessions Judge, Athagara in Criminal Revision No.6 of 2021 whereby the learned Addl. Sessions Judge confirmed the order dated 19.01.2021 passed by the learned S.D.J.M., Athgarh in Criminal Misc. Case No.63 of 2020.

4. It appears that the Petitioner filed a petition under Section 457 Cr.P.C. for release of the seized mobile phone before the learned S.D.J.M., Athagarh in Criminal Misc. Case No.63 of 2020. The

learned S.D.J.M rejected the said petition on the ground that the seized mobile phone is required for investigation. Being aggrieved by the said order, the Petitioner filed Criminal Revision No.06 of 2021 before the learned Addl. Sessions Judge, Athgarh. The revisional court also rejected the petition filed by the Petitioner.

5. Considering the facts and the submissions made, this Court is not inclined to interfere with the impugned orders. However, in the meanwhile if the investigation has been completed, the Petitioner may renew his prayer by filing appropriate application for release of the seized mobile phone before the learned S.D.J.M., Athagarh and in that event, learned S.D.J.M shall obtain specific instruction from the Investigating Agency whether the same is a piece of evidence and essential to prove the guilty of the accused or not. If the investigation has not been completed yet, the learned S.D.J.M while considering the same must obtain the instruction on this point from the Investigating Agency and decide the same taking note of the attending circumstances, notwithstanding the earlier rejection of the petition filed by the Petitioner.

6. With the aforesaid order, this CRLMC stands disposed of.
7. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

PKS

