

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.2883 of 2021

Ramesh Chandra Mahanta **Petitioner**
Mr.A.Mishra, Adv.

-versus-

State of Odisha **Opposite Party**
Mr. K.Gaya, ASC

CORAM:
MR. JUSTICE S.K. PANIGRAHI

ORDER
28.01.2022

Order No.

01. 1. This matter is taken up through Video Conferencing mode.
2. the petitioner has filed this application assailing the order dated 26.11.2021 passed by the learned Sessions Judge cum-Special Judge (Vigilance), Keonjhar, in Criminal Revision No.11/10 of 2021 arising out of Ghatagaon P.S. Case No.91 of 2021 in confirming the order of rejection passed by the S.D.J.M., Keonjhar in C.M.C. No.222/2021 in the application filed under Section 457 of Cr.P.C. by the petitioner for interim release of the vehicle seized in connection with Ghatagaon P.S. Case No.91 of 2021 corresponding to G.R. Case No.1104 of 2021.
3. Learned counsel for the petitioner submits that the petitioner and others were implicated as accused persons in the case on the allegation that on the relevant day the vehicle (Tractor and Trolley) bearing registration No.OD-09-L-5044. The said car met with an accident with the petitioner's car bearing registration number OD-09-L-5045, at about 3.30 p.m. on 13.07.2021. The said accident rendered one person dead and

others injured. Based on the information received by the Police of Ghatagaon, P.S. Case No.91 of 2021 was registered for commission of offences under Sections 279/337/338/304-A of the Indian Penal Code. The investigation was taken up. During investigation, the petitioner and others were charge sheeted. The petitioner was released on bail by the learned court below. But the detention of the vehicle of the petitioner is not required in the said case at all, as it is not a material object to be produced during trial of the case but the learned trial court rejected the application under Section 457 Cr.P.C. on the ground that there is no valid insurance which is unjust and illegal.

It is further submitted that the insurance of the vehicle was valid till 13.07.2021 midnight and the occurrence was on 3.30 p.m.. That apart from the said, there was no other impediment stopping the release of the vehicle in favour of the petitioner as an interim measure during pending of the trial. But learned court below without going through the material available on record and without applying judicial mind has been pleased to reject the same.

4. Learned counsel for the State submits that in the event of release of the vehicle, some cash security/property security should be imposed on the petitioner with some stringent terms and conditions.

5. Be that as it may, as the seized vehicle is subject to damage in case the same is left open and unattended for an indefinite period, this Court is of the view that pending disposal of G.R. Case No.1104 of 2021 the petitioner being entitled to possession thereof should be in the interim custody of the

seized vehicle. It appears that there shall be no impediment in the investigation in case the seized vehicle is kept in the interim custody of the petitioner subject to appropriate conditions. Accordingly, the CRLMC is disposed of directing that the above said seized vehicle shall be released in the zima of the petitioner subject to the conditions that:

(I) the petitioner shall furnish a cash security of Rs.3,00,000/- (Rupees three lakhs) in the F.D. in any nationalized bank pledged in the name of the court concerned and property security of Rs. 2,00,000/-(rupees two lakhs) before the court concerned:

(II) the petitioner shall furnish an undertaking that (i) the vehicle shall not be used for commission of any offence; (ii) the petitioner shall not change the colour or appearance of the seized vehicle; and (iii) the petitioner shall produce the seized vehicle as and when required by the court.

6. 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 Office Order dated 7th January, 2022.

(S.K. Panigrahi)
Judge