

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.2967 of 2021

SebestianaBarla

....

Petitioner

Mr.Soumya Ranjan Das, Adv.

-versus-

State of Odisha

....

Opposite Party

Mr. K.Gaya,ASC

CORAM:
MR.JUSTICE S.K. PANIGRAHI

ORDER
02.02.2022

Order No.

01. 1.This matter is taken up by virtual mode.

2. The petitioner has filed this application challenging the order dated 21.06.2021 passed in CMC Case No.25 of 2021 by the learned Sub Division Judicial Magistrate, Kuchinda wherein the petitioner's application for release of the vehicle has been rejected in connection with Kuchinda P.S. Case No. 226 of 2020 corresponding to G.R Case No. 680 of 2020, for the alleged commission of offences U/s 395 and 397 of IPC read with Section 25 of Arms Act.

3. Prosecution case, in short is that on 09.11.2020 the informant received information that while his bank staffs were returning with cash from a Sambalpur, they were looted. It is alleged that two people who were the occupant of a Bajaj Pulsar bearing ChasisNo.MD2A13EX42CF35129, and four other on different

vehicles were the responsible looters. During the course of investigation the afore named vehicle was seized.

4. The petitioner moved an application under 457 Cr.P.C. before the learned lower court for release of the vehicle which was refused on the ground that the investigation was not complete.

5. Learned counsel for the petitioner submits that the petitioner is not an accused within the boundaries of this case since the vehicle was misutilized under his name. Further the charge-sheet has been submitted, but the investigation is still open with mala-fide intention. The counsel placed reliance on the case of **Sundar Bhai Ambala Desai vs State of Gujarat**¹ in which the Hon'ble Apex court held that :

"In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police station for a long period. 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. This can be done pending hearing of applications for return of vehicles.

:

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

¹(2003) 24 OCR SC 444

7. 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 the trial 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.50,000/- (Rupees fifty thousand) in the F.D. in any nationalized bank pledged in the name of 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.

8. 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.

Judge

(S.K.Panigrahi)

LB