

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV No.397 of 2022

Jitendra Kumar Digal *Petitioner*
Mr. Prasanta Kumar Satapathy, Adv.
-versus-
State of Odisha *Opposite Party*
Mr. Dhananjaya Mund, AGA

CORAM:
DR. JUSTICE S.K. PANIGRAHI

Order
No.

ORDER

16.01.2024

02.

1. This matter is taken up through hybrid arrangement.
2. The Petitioner being the owner of the vehicle has filed this CRLREV challenging the order dated 09.08.2021 passed by the learned Special Judge, Phulbani. Apart from this prayer, the Petitioner has also sought for a direction from this Court for releasing his vehicle bearing Regd. No.OR-02-BZ-2386, which has been seized in connection with Phiringia P.S. Case No.37/2019 corresponding to C.T. Case No.19/2019 pending on the file of learned Special Judge, Phulbani.
3. Heard learned counsel for the Petitioner and learned counsel for the State.
4. The brief fact of the case is that on 25.04.2019, the S.I. of Police, Phiringia Police Station named Bibhuti Bhusan Muduli formed a party and proceeded towards Nuapada to verify the veracity of information regarding possession and transportation of Ganja by one Jitendra Digal of village

Rabingia by means of one Indigo Car bearing registration No.OR-02-BZ-2386.

5. At about 6.45 P.M at Nuapada Chhak, they noticed about coming of the suspicious Car bearing registration No.OR-02-BZ-2386. On seeing the Police vehicle, the driver of the suspicious car turned back the Car and ran away towards the nearest forest leaving the Car near the village Ladali. While the driver was running away, the S.I. of Police identified him as Jitendra Digal of village Rabingia, who was previously involved in NDPS Case.

6. After completion of all formalities of search, the S.I. of Police searched the said Indigo Car and recovered one plastic bag containing 30 kgs. 100 grams of ganja, which was kept in the back seat of the vehicle in a concealing manner. The SI of Police seized the contraband ganja along with the Indigo Car, which was recovered from the exclusive and conscious possession of the accused Jitendra. Seizure list was, accordingly, prepared on 25.04.2019.

7. The accused Jitendra Digal was arrested on 13.07.2019 and was forwarded to Court for committing offences under section 20 (b) (ii) (C)/25/29 of the NDPS Act. Investigation of the case has been completed and I.O. submitted charge sheet against the accused Jitendra Digal for committing an offences under Sections 20(b) (ii) (C)/25/29 of the NDPS Act.

8. Learned counsel for the Petitioner submits that since the aforementioned vehicle of the Petitioner has been parked at an open space, the same is going to be damaged due to direct exposure to the sun and rain.

9. Learned counsel for the State submits that since the contraband ganja quantity of 30 kgs. 100 grms. has been seized from the vehicle of the Petitioner bearing registration no.OR-02-BZ-2386, the court below has rightly rejected the Petitioner's application under Section 457 of the Cr.P.C.

10. Having heard the rival submissions of the parties and upon perusal of materials on record, this Court finds that the said vehicle has been kept in the Police Station being exposed to sun and rain and may face unnecessary wear and tear. In case the seized vehicle is left unattended to in the premises of the Police Station for an indefinite period, the vehicle is likely to be damaged and deteriorated. In such circumstances, there appears no hindrance in releasing the seized vehicle in the zima of the Petitioner on furnishing security and appropriate undertaking.

11. Accordingly, the CRLREV is disposed of directing the learned court in *seisin* over the matter to release the above seized vehicle in the zima of the Petitioner subject to the conditions that the Petitioner:-

- (i) shall deposit a sum of Rs.50,000/-(Rupees fifty thousand only) by way of a draft in favour of the Registrar, Civil Courts within one month hence;
- (ii) shall file an undertaking that he will not change the appearance and colour of the seized vehicle;
- (iii) shall not allow the vehicle to be used for any illegal purpose; and
- (iv) shall produce the seized vehicle in the court as and when required.

12. In case of violation of any of the conditions by the Petitioner, the entire amount shall be forfeited and will be deposited with the Odisha Police Relief and Welfare Fund and this order would not be applicable.

13. At this juncture, this Court generally observes that most of the vehicles seized by the Police personnel/Excise Department/Forest Department are parked in open space with direct exposure to sun light and rain. The seized vehicles also remain inoperative for long time rendering the said seized vehicle faster wear and tear.

14. Learned counsel for the State submits that because of mandates of some laws, the Government is constrained not to release of the seized vehicles.

15. In such view of the matter and to avoid such insalubrious condition, this Court directs the Transport Commissioner, Government of Odisha to take some decision on this issue. So

that, the condition of the seized vehicles, which are in direct exposure to the sun light and rain, would not get deteriorated. The Transport Commissioner shall explore the possibility of framing a policy on this issue after consultation with the stakeholders. So that, the wear and tear can be avoided and the perennial problem of crowding of vehicle in front of the Police Station, Excise Office and Forest Office can be lessened.

16. The Transport Commissioner is also directed to explore such possibility of decongesting the Police Station/Excise Office/Forest Office in the State by filing an affidavit regarding possibility of relaxation in Rules/Statutes also by proposing some amendments relating to this issue and the State Government will make serious endeavor to frame a policy on the aforementioned issue. Therefore, the vehicles can be released on some stringent terms and conditions in favour of the real owners.

17. Free copy of this order be supplied to Mr. Pravakar Behera, learned Standing Counsel for the Transport Department.

18. List this matter on 7th February, 2024.

(Dr. S.K. Panigrahi)
Judge