

IN THE COURT OF THE SESSIONS JUDGE, KHURDA
AT BHUBANESWAR

CMC No.01 of 2018

(Arising out of T.R. Case No.1996 of 2017, corresponding to
Khandagiri P.S. Case No.392 dated 07.09.2017)

Dillip Sethy, aged about 25 years, S/o. Kailash Sethy of Village -
Godibida, P.O. - Similisahi, P.S. - Daspalla, District - Nayagarh
... Petitioner

-Vrs-

State of Odisha ... Opposite Party

Date of Hearing : 03.04.2018

Date of Order : 19.04.2018

ORDER

A petition under Section 457 of the Code of Criminal Procedure, 1973 (hereinafter called as 'the Code') is pressed into service by the petitioner seeking an order of the Court to direct release and custody of the alleged vehicle bearing registration No.OD02E 9089 which was seized in connection with Khandagiri P.S. Case No.392 dated 07.09.2017 corresponding to T.R. Case No.1996 of 2017 registered under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 on the grounds, inter alia, that its disposal should be immediately ensured, as it is

exposed to climatic damages and for the fact that, the same is not required for the purpose of investigation.

2. It is contended by the petitioner that he being the owner of the seized vehicle, which is detained at the P.S. from 07.09.2017, it should be released in his favour with any terms and conditions, as there is every likelihood of it being damaged in vagaries of nature. The learned P.P. for the State contended that the vehicle in question should not be released, since it was being used in transportation of commercial quantity of contraband Ganja.

3. As per the law, seized articles, unless required for the purpose of investigation, should not be unnecessarily detained in the custody of police, which is highlighted upon by the Hon'ble Apex Court, time and again. In other words, valuable articles including the vehicles, which lie inside the premises of the P.S. should not be allowed to remain there, detrimental to the interest of the persons, who are, otherwise, lawfully entitled to it. In the instant case, the petitioner submitted the original registration certificate and a SMART card thereof to satisfy the Court regarding his ownership vis-à-vis the alleged vehicle bearing registration No. OD02E 9089. A report was called for from the I.O., which has been received by the Court and is in the record. According to the report dated 18.03.2018, the S.I. of Police, Khandagiri P.S. intimated the Court that the petitioner being the registered owner of the seized

vehicle, his involvement in the alleged crime is under investigation. The alleged seizure of the vehicle was made in the month of September, 2017. The purpose for which the detention of the alleged vehicle during the investigation required, is not mentioned in the report dated 18.03.2018 submitted by the S.I. of Police of the P.S. The vehicle in question has been seized in connection with the case and the same is currently lying on the premises of the P.S. The accused involved in the case is currently on bail by the orders of the Court dated 08.12.2017. The major part of investigation, as it appears, to be over. That apart, the learned P.P. has not raised any doubt or dispute with regard to the ownership of the seized vehicle, or ever alleged the petitioner to be the person not entitled to possess it. As per the settled law, the vehicle or such other valuable articles, without any real purpose, should not be detained at the P.S., and it ought to be released to the custody of the persons lawfully entitled to retain it. As per the original documents submitted, the petitioner, prima facie, appears to be the owner of the vehicle in question. In absence of any specific reason being mentioned in the report dated 18.03.2018, the Court is of the considered opinion that the detention of the seized vehicle at the P.S. premises is unwarranted and it should be immediately released in favour of the petitioner, who happens to be its owner, as is suggested from the original registration certificate and the SMART card submitted by him. Accordingly, it is directed.

4. Hence, it is ordered.

5. In the result, the petition under section 457 of the Code, moved at the behest of the petitioner, stands allowed. As a necessary corollary, it is directed that the seized vehicle bearing registration No. OD02E 9089 to be released in favour of the petitioner subject to his furnishing an indemnity bond for Rs.20,000/- (Rupees Twenty Thousand), with one solvent surety for the like amount with the following conditions, such as, he shall not dispose of the vehicle without the leave of the Court and until then, not to tamper with it, in any manner, whatsoever.

Accordingly, the proceeding stands disposed of.

Dictated & Corrected

Sessions Judge, Khurda
at Bhubaneswar

