

(2023) 05 OHC CK 0079
In the Orissa High Court
Case No : Criminal Revision No.174 Of 2023

Dayadan Harijan

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 04-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 457

Citation : (2023) 05 OHC CK 0079

Hon'ble Judges : D.Dash, J

Bench : Single Bench

Advocate : R.L. Pattnaik, S.S. Mohapatra

Final Decision : Dismissed

Judgement

D.Dash, J

1. The matter is taken up through hybrid arrangement (virtual/physical mode).
2. The petitioner, by filing this revision, has called in question the legality and propriety of order dated 02.03.2023 passed by the learned Sessions Judge-cum-Special Judge, Nabarangpur in T.R.Case No.26 of 2021.

By the said order, the application filed by the Petitioner under section 457 of the Cr.P.C. for release of cash of Rs.4,81,100/-and gold ornaments weighing 64 grams has been rejected.

3. Learned counsel for the Petitioner submits that pursuant to the seizure of the contraband ganja from the vehicle, which was standing in front of the house of the Petitioner, the case has been registered and in course of investigation, house of the Petitioner being searched, cash of Rs.4,81,100/- and gold ornaments weighing 64 grams have been seized. He further submits that as per the prosecution case the Petitioner and his son had brought the contraband ganja from accused Subash Bisoi and Subir Bisoi and it is said that accused Ramesh Mali and Hare Samarath were also involved in the transportation of said

contraband ganja and they had escorted the vehicle from the starting point up to the house of the Petitioner where it being parked was searched. He submits that there was absolutely no justification for seizure of the cash and gold ornaments as those in no way concern with the alleged commission of the offence.

4. Learned counsel for the State submits all in favour of the impugned order refusing to release the cash and gold ornaments. He further submits that the trial of the case is yet to commence in view of the non-apprehension of accused Ramesh Mali, Hare Samarath and Subash Bisoi and now steps have been taken for ensuring the presence of those absconding accused persons.

5. Keeping in view the submissions made, I have perused the impugned order. The seizure of the cash and gold ornaments have been made in course of investigation of the case after seizure of the contraband from the vehicle which was standing in front of the house of this Petitioner (accused).

The prosecution case is that accused Ramesh Mali and Hare Samarath were the associates of the Petitioner and his son, i.e., accused Butasingh Harijan in transportation of the contraband from the source and it is said that the suppliers of the said contraband ganja are Subash Bisoi and Subir Bisoi, who although have been arraigned as accused persons have so far somehow managed to avoid the process of law. In the facts as set out by the prosecution, at this stage, in my considered view, the application for release of cash and gold ornaments when the court is not in a position to hear all the accused persons in the matter and on the claim of this Petitioner (accused) as regards his entitlement to get those released in his favour pending trial, the application under section 457 of the Cr.P.C. at the instance of the accused is not entertainable both in fact and law.

6. For the aforesaid, I do not find any reason or justification to interfere with the impugned order in exercise of the revisional jurisdiction.

7. In the result, the Revision stands dismissed. Issue urgent certified copy as per rules.

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