

(2023) 02 OHC CK 0054
In the Orissa High Court
Case No : CRLMC No.2956 Of 2022

Smt. Sanghamitra Das

APPELLANT

Vs

State of Odisha (Vigilance)

RESPONDENT

Date of Decision : 09-02-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482

Citation : (2023) 02 OHC CK 0054

Hon'ble Judges : R.K. Pattanaik, J

Bench : Single Bench

Advocate : S.S. Das, S. Das, Niranjana Moharana

Final Decision : Partly Allowed

Judgement

R.K. Pattanaik, J

1. Heard Mr.S.S. Das, learned Senior Advocate being assisted by Ms.S. Das, Advocate for the petitioner and Mr.Niranjana Moharana, learned Additional Standing Counsel for the Vigilance Department.

2. Instant petition under Section 482 Cr.P.C. is at the behest of the petitioner assailing the impugned order dated 17th August, 2022 passed by the learned Special Judge, Vigilance, Bhubaneswar in Criminal Misc. Case No.30 of 2021 arising out of VGR Case No.26 of 2020 whereby an application for release of the gold and silver ornaments besides the fixed deposits and insurance bonds seized by the Vigilance Department in her favour was declined and rejected.

3. A copy of the FIR is at Annexure-1 and the same is perused.

4. Annexure-5 is the certified copy of impugned order dated 17th August, 2022 passed by the learned Special Judge, Vigilance, Bhubaneswar in Criminal Misc. Case No.30 of 2021 and the same is also perused.

5. Mr. Das, learned Senior Advocate for the petitioner submits that the petitioner is facing a lot of hardship and inconvenience for the alleged seizure of articles

which include gold and silver ornaments as they are required for her daughter's marriage but lying with the Vigilance Department for quite some time. It is further submitted that the fixed deposits and insurance bonds are also seized which should be released forthwith in favour of the petitioner.

6. In response to the above, Mr. Moharana, learned counsel for the Vigilance Department submits that the fixed deposits and insurance bonds cannot be released at present especially when the investigation is still on. It is informed to the Court that the Vigilance Department is making a move for attachment and confiscation of the articles, such as, fixed deposits, insurance bonds besides gold and silver ornaments. In other words, Mr. Moharana, learned counsel for the Vigilance Department submits that seized items should not be released in favour of the petitioner on any such ground so raised by her since investigation is still in progress.

7. Having regard to the submissions of Mr. Das, learned Senior Advocate for the petitioner and Mr. Moharana, learned Additional Standing Counsel for the Vigilance Department, the Court is of the view that in so far as the fixed deposits and insurance bonds are concerned, it cannot be released pending investigation and also considering the submission that a process is already contemplated for its confiscation. However, as to the gold and silver ornaments, the Court is of the humble view that the said items may be released in favour of the petitioner in view of the purpose stated that the same would be required in her daughter's marriage but with conditions. In other words, the Court is inclined to release the ornaments only excluding the fixed deposits and insurance bonds subject to the following conditions.

8 . Accordingly, it is ordered.

9. In the result, the CRLMC stands allowed in part. Consequently, the impugned order under Annexure-5 passed by the learned Special Judge, Vigilance, Bhubaneswar in Criminal Misc. Case No.30 of 2021 is hereby set aside to the extent indicated above with the consequential direction that the gold and silver ornaments seized and lying with the Vigilance Department shall be released in favour of the petitioner subject to conditions, such as, (i) it shall not be disposed of in any manner whatsoever during pendency of the investigation; and (ii) that the nature and character of the same shall not be changed and to be produced before the IO for inspection and in connection with investigation as and when required.

10. Issue urgent certified copy of this order be issued to Ms.S. Das, learned counsel for the petitioner in course of the day.

11. A free copy of this order be also supplied to Mr. Niranjana Maharana, learned counsel for the Vigilance Department for compliance and information.

.....