

01.11.22

This order arises out of a petition filed by the petitioner namely Kunu Kisan under Sec. 457 Cr.P.C. praying therein to release the seized Super Splendor bearing Regn.No. OD-28-A-5277 having its Chassis No. MBLJAW090K9J04893 and Engine No- JA05EGK9J25058 arising out of 2(b) C.C 383/22 U/s. 52(a) Orissa Excise Act.

The petition of the petitioner reveals that the petitioner is the owner of Super Splendor bearing Regn.No. OD-28-A-5277 having its Chassis No. MBLJAW090K9J04893 and Engine No- JA05EGK9J25058. The said vehicle has been seized by the police in connection with Deogarh Excise Case No. 154 Dt. 23.09.22 relating to 2(a) C.C case No. 383/22 in allegation U/s- 52(a) Orissa Excise Act. The vehicle is being kept in an open place in Deogarh Excise office. The registered owner of the motorcycle who is the accused in this case has already been released on bail on dt. 30.09.22 by this Hon'ble Court. The motorcycle is the only means of communication of the petitioner. There is every chance of decay and damage of the said motorcycle due to Sun and Rain which will cost the petitioner a lot.

The Id. APP objected on the ground that confiscation proceeding has already been initiated in this case. Hence, prayed to reject the petition. Heard both the counsels.

Perusal of the original case record i.e. 2(a) C.C Case No 383/22, it reveals the fact that the allegation leveled against the accused persons are U/s. 52(a) Orissa Excise Act. The alleged Super Splendor bearing Regn.No. OD-28-A-5277 having its Chassis No. MBLJAW090K9J04893 and Engine No- JA05EGK9J25058. The said vehicle has been seized by the police in connection with Deogarh Excise Case No.154/22. The final P.R has not been submitted and the case is at investigation stage. In addition to this, the Inspector of Excise, Deogarh has filed an intimation vide Memo No 308 dt. 14.10.22 regarding the initiation of Confiscation Proceeding against the seized motor cycle. At this stage the petitioner has filed the petition to release the seized vehicle. On perusal of the report submitted by the Excise Station, Deogarh it is seen that the confiscation proceeding trial vide Case No. 09/2022-23 has already been initiated at the court of Authorized Officer ,Deogarh Division against the vehicle. On perusal of the proviso to Section 71(7) it is seen that there is a bar for release of seized property during pendency of the confiscation proceedings and from Section 72 it is found that once the Authorized Officer has the power to release the seized property no court shall entertain any application in respect of the same property, So this court is not a Competent Authority to release the seized Super Splendor bearing Regn.No. OD-28-A-5277 having its Chassis No. MBLJAW090K9J04893 and Engine No- JA05EGK9J25058 at this stage. Hence, the petition filed by the petitioner bearing no merit at this stage stands **rejected**.

Dictated

Sd/-

S.D.J.M., Deogarh.