



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.132 of 2025

(An application U/S.438 read with section 442 of the BNSS).

Duryodhan Sahoo

...

Petitioner

-versus-

State of Odisha

...

Opposite Party

For Petitioner

: Ms. M.P. Behera, Advocate

For Opposite Party

: Mr. A. Pradhan, Addl. PP

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:18.03.2025(ORAL)

G. Satapathy, J.

1. This revision by the Petitioner is directed against the impugned order dated 03.03.2025 passed by the learned Additional Sessions Judge Sundargarh, in Criminal Misc. Case No. 03/20 of 2025 refusing to release the vehicle in interim custody of the Petitioner in an application under Section 503 of BNSS.

2. Heard learned counsel for the parties and perused the record.



3. It appears from the impugned order that the matter has not been disposed of on merit, but on technicality, however, the learned Additional Sessions Judge, Sundargarh while dismissing the application of the petitioner has stated in the impugned order that the Court of Addl. Sessions Judge has no jurisdiction to dispose of the matter in original case which is pending before the learned Sessions Judge awaiting final form. True it is that the learned Additional Sessions Judge has no jurisdiction to take up the matter of the Sessions Judge, especially when the Sessions Judge is present and functioning, but inadvertently the record has been transferred to the Court of learned Additional Sessions Judge who has disposed of the application of the Petitioner by dismissing it on technical ground, but this Court impresses upon the learned Additional Sessions Judge that if he has got no jurisdiction to deal with the matter, he should have re-submitted the record to the concerned Sessions Judge, instead of proceeding further to



dismiss it inasmuch as law never intends to create any bar against re-submission of the record to the concerned Court which has although jurisdiction to deal with the matter, but inadvertently transferred the same to a Court not having jurisdiction for disposal of the case on merits. Further, the provisions of law makes it ample clear that the party who is approaching the Court should be heard and his grievance should be addressed to and in no circumstance, the grievance of the Petitioner should be thrown at the threshold on the technicality of jurisdiction, unless the same is not cognizable by the said Court, but in case it is found by the concerned Court dealing with the matter that it has got no jurisdiction and another Court is having jurisdiction, it is plain and simple for the said Court not having jurisdiction to resubmit the record to the concerned Court having jurisdiction to deal with the matter.

4. It is to be understood that the Courts are meant for the litigants to remedy their grievance



and we owe our existence to this Institution “popularly referred as Courts” and, therefore, if the litigants approach the Court to get their grievance remedied, it should be the duty of the Court to decide or deal with the grievance of the litigants notwithstanding the litigation has merit or not, however, on analysis of facts and evidence, if the Court finds the litigation to be unmerited, it would decide such litigation against the litigant approaching the said Court. The moral of the discussion is not to throw away the grievance of the party approaching the Court on technicality at threshold, when such matter can be decided on merits.

5. In this case, the Petitioner has approached the Sessions Judge for release of his vehicle which has been seized in a case relating to commission of offence under Section 20(b)(ii)(C) of NDPS Act, but Section 60(3) of the NDPS Act read together with Sec. 503 of BNS provides authority to the concerned Sessions Court, subject to its



satisfaction in accordance with law, to pass orders for interim custody/release of the conveyance pending disposal of the confiscation proceeding since the question of confiscation of the conveyance would arise only at the end of the trial and if it is proved that the conveyance was used to commit the offence under NDPS Act, such conveyance would be confiscated, unless the owner of such conveyance proves that it was so used without his/her knowledge or connivance or the knowledge or connivance of his/her agent in charge of such conveyance.

6. In view of the aforesaid facts and circumstance and taking into account the rival submissions and keeping in view the matter has been disposed of not on merit, but on technicality, this Court considers it proper to remit the matter back to the concerned Special Judge for disposal afresh in accordance with law by giving an opportunity of hearing to the parties. Consequently, the impugned order passed by the learned



Additional Sessions Judge Sundargarh, in Criminal Misc. Case No. 03/20 of 2025 is hereby set-aside.

7. In the result, the Criminal Revision stands allowed on contest, but there is no order as to costs. Accordingly, the matter is remitted back to the learned Sessions Judge-Cum-Special Judge Sundargarh for disposal in accordance with law.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 18th day of March, 2025/S.Sasmal*

Signature Not Verified

Digitally Signed
Signed by: SUBHASHMITA SASMAL
Designation: Jr. Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 19-Mar-2025 11:20:42

