

Court No. - 79

Case :- CRIMINAL REVISION No. - 3183 of 2023

Revisionist :- Vijay Kumar Shukla

Opposite Party :- State of U.P.

Counsel for Revisionist :- Rakesh Chandra

Counsel for Opposite Party :- G.A.

Hon'ble Vipin Chandra Dixit,J.

This criminal revision has been filed by revisionist against the order dated 15.4.2023 passed by learned Incharge Additional Sessions Judge, F.T.C./C.A.W. Sonebhadra in Case No.108 of 2023, by which the release application filed by revisionist was rejected.

The brief facts of the case are that a F.I.R. has been lodged by Inspector Amit Singh with the allegation that during checking on 1.1.2023, one Eon car bearing no. UP65/CR1538 was detained and 49.35 Kg. Ganja was recovered from the car and revisionist, Akhilesh Kumar Tripathi and Ritesh Mishra were arrested by the police. The F.I.R. was registered as Case Crime No.0001 of 2023, under Sections 3/20 of N.D.P.S. Act. The vehicle of the revisionist was also seized by the police.

It is submitted by learned counsel for the revisionist that revisionist is registered owner of car bearing no.UP65/CR1538 and it was never used for transportation of Ganja. There was no independent witness of the alleged recovery of Ganja. The search and seizer has been made by the police party in violation of mandatory provisions of N.D.P.S. Act. Nothing has been recovered from the possession of revisionist or from the car of the revisionist and a false recovery has been shown by the police party. The application moved by the revisionist for release of vehicle was rejected by the learned Incharge Additional Sessions Judge, F.T.C./C.A.W., Sonebhadra vide order dated 15.4.2023 merely on the ground that police has not submitted any charge-sheet in this case and investigation is still going on. It is further submitted that police after investigation has submitted charge-sheet and criminal case is pending and there is no chance of early disposal of trial. The car of the revisionist is detained in police station since 1.1.2023 and more than eleven months have been passed, the vehicle is lying in open yard of police station. It is further submitted that the revisionist is registered owner of the car and the registration certificate has been annexed as Annexure-3 to the affidavit filed in support of criminal revision. There is no dispute regarding ownership of the car. Lastly, it is submitted that if the vehicle of the revisionist is detained for such a long period in police station, the condition of the car will be deteriorating day by day. The revisionist undertakes that he will not sell out the car in question during the pendency of trial and will produce the same before the trial court as and when the trial court requires.

Learned counsel for the applicant has relied on the judgment of Hon'ble the Apex Court in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat*** reported in ***2002 LawSuit (SC) 1346***. The relevant paragraph is as under:-

"In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

Considering the submissions of learned counsel for the revisionist and on perusal of record, it is evident that the vehicle of revisionist is detained in the Police Station since 1.1.2023 and more than eleven months have been passed and there is no possibility of early disposal of trial. The prayer for release of the vehicle is liable to be allowed.

In view of above, the criminal revision is allowed and the order dated 15.4.2023 is hereby quashed.

Let the vehicle Eon car No. UP65/CR1538 be released in favour of revisionist on furnishing two heavy sureties as fixed by the trial court with undertaking to the effect that he will not sell out the aforesaid vehicle during the pendency of trial and shall produce the aforesaid vehicle before the trial court, as and when the trial court requires.

Order Date :- 6.11.2023

Kpy