

Court No. - 92

Case :- APPLICATION U/S 482 No. - 34119 of 2023

Applicant :- Anil Kumar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Abhinav Singh,Ajeet Dixit

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Supplementary affidavit filed today in court is taken on record. Heard Sri Ajeet Dixit, learned counsel for the applicant and Sri U.D. Shukla, learned counsel for the State.

2. The instant application has been filed seeking quashing of the impugned order dated 23-05-2023 passed by the learned Additional Sessions Judge, Court No.1, Sonbhadra (State Vs. Anil Kumar) in Criminal Case No. 116 of 2022, arising out of Case Crime No. 67 of 2023, under Section 8/21 of N.D.P.S. Act, P.S. Robertstganj, district Sonbhadra, pending in the court of Additional Sessions Judge, Court No.1, Sonbhadra.

3. Learned counsel for the applicant submits that in the instant case along with the contraband material as per the NDPS Act, three vehicles namely one White Hyundai Aura Car No. UP 64AP 5513, Bullet Motor Cycle No. UP 64 AU5794 and another Motor Cycle without number whose Chasis number is MB 637 GE50NZ 00854 were seized. In the F.I.R. it has been stated that the aforesaid vehicles are seized under Section 207 of the Motor Vehicles Act. Learned counsel for the applicant further submits that since the vehicles were seized in pursuance of the F.I.R. being Case Crime No. 67 of 2023, under Section 8/21 of N.D.P.S. Act, the applicant has approached for release of the aforesaid vehicles before the learned Additional Sessions Judge, Court No.1, Sonbhadra and the learned Additional Sessions Judge, Sonbhadra vide impugned orders dated 23-05-2023 has rejected the application for release of the said vehicle on the ground that the said vehicles were seized under the Motor Vehicles Act. However, there is no separate F.I.R. under the Motor Vehicles Act. After the order dated 23-05-2023 passed by the learned Additional Sessions Judge, the applicant has approached the learned Chief Judicial Magistrate, Sonbhadra seeking release of the vehicles then the Chief Judicial Magistrate, Sonbhadra has rejected the application vide order dated 08-06-2023 while observing that the said vehicles were seized under the

provisions of NDPS Act, therefore, only the Special Judge, NDPS Act can release the vehicles, therefore, the applicant has approached this Court for a direction to the competent court to release the impugned vehicles or pass appropriate orders with regard to release of the vehicles in accordance with law.

4. Learned counsel for the State submits that since there is only one F.I.R. being case crime no. 67 of 2023 which is under Section 8/21 of the NDPS Act, therefore, merely because the averment has been made in the F.I.R. that the vehicle is being seized under Section 207 of the Motor Vehicles Act cannot be said that the said vehicles were seized under the Motor Vehicles Act, therefore, only Special Judge, NDPS Act, will have jurisdiction to pass appropriate orders on the application for release of the said impugned vehicles.

5. In view of the aforesaid submissions made by the learned counsel for the parties, the impugned orders dated 23-05-2023 passed on the application filed by the applicant for release of the impugned vehicles are hereby **set aside** and the matter is remanded back to the learned Special Judge, NDPS Act, Sonbhadra to pass appropriate orders in accordance with law on the application for release of the impugned vehicles of the applicant ignoring the averments made in the F.I.R. that the vehicles were seized under Section 207 of the Motor Vehicles Act.

6. With the aforesaid observations, the instant application stands **disposed of**.

Order Date :- 30.10.2023

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