

NAFRHIGH COURT OF CHHATTISGARHCr.M.P. No.6 of 2015

Shiv Kumar Sahu, S/o Shri Jagdish Ram Sahu, aged about
40 years, R/o Village Arjuni, Thana and Tahsil
Dongargaon, Civil and Revenue District Rajnandgaon (CG)

----- **Petitioner**

versus

State of Chhattisgarh through the District Magistrate,
Rajnandgaon, District Rajnandgaon (CG)

----- **Respondent**

For Petitioner	:	Shri Samir Singh, Advocate
For Respondent	:	Smt. M. Asha, Panel Lawyer

Hon'ble Shri Justice Goutam BhaduriOrder on Board26/06/2015

1. This is a petition under Section 482 of the Code of Criminal Procedure against order dated 31-10-2014 passed in Criminal Revision No.73/2014 by the Sessions Judge, Rajnandgaon. The revisional Court has affirmed the order dated 17-10-2014 passed by the Chief Judicial Magistrate, Rajnandgaon rejecting the application of the petitioner seeking custody of the crackers on *Supurdnama* seized from him.
2. Learned counsel for the petitioner submits that the petitioner was granted a licence by the District Magistrate, Rajnandgaon for sale of

crackers which were to be sold during the festival of Diwali only. However, during such period the house of the petitioner was raided and the crackers worth Rs.1,20,000/- were seized by the police and thereafter the crackers have been kept open in the police station and goods if are kept in open shall be perished completely. Therefore, the crackers may be released on *Supurdnama* in favour of the petitioner, who, in turn, shall abide by the conditions of the licence which mandates that the crackers will be kept in such a solid, close and safe premises made of bricks and concrete so that no unauthorised person could enter that premises.

3. The State has filed its reply. It is stated that the crackers, valued at Rs.1,20,000/-, were seized by the police from the residential house of the petitioner. Keeping crackers in a residential house is against the terms of the licence granted to the petitioner. It is further stated that the petitioner was allowed to keep 50 kilograms of crackers in a market campus, but the crackers were kept in the residential house of the petitioner. The seizure was made and charge-sheet has been filed.

4. A perusal of the orders of the revisional Court as also the trial Court reveals that primarily the rejection to hand over the goods on *Supurdnama* was on the ground that the same was kept in the residential house against the terms of the licence. Admittedly, the goods have been seized and the bills have also been placed on record. The licence (Annexure P-3) granted to the petitioner is also on record. A perusal of the licence reveals that certain conditions have been embodied in the licence by the District Magistrate and one of those conditions shows that the crackers will not be kept in a residential house.
5. Taking into consideration the fact that the crackers have been kept in the police station and the charge-sheet has been filed and no purpose would be served to keep the crackers in the police custody as the goods appears to be perishable in nature, I deem it proper to allow this petition and hand over the goods seized to the petitioner on *Supurdnama* on his furnishing a personal bond of Rs.1,50,000/- and a surety for the like sum to the satisfaction of the trial Court. It is further observed that the petitioner shall not change the nature of the goods and shall keep the same in the

same format as it is as the goods may be required at the time of evidence. On furnishing of personal bond and surety by the petitioner in the trial Court, the trial Court shall obtain a report from the District Magistrate regarding his satisfaction of availability of a safe premises with the petitioner to keep the goods and only on the basis of satisfaction of availability of a safe premises with the petitioner the order of release of the goods on *Supurdnama* shall take effect. The aforesaid exercise is to be carried out by the District Magistrate within a period of 30 days from receipt of the direction by the trial Court.

6. Consequently, the instant petition stands disposed of in the aforementioned terms.

Sd/-
(**Goutam Bhaduri**)
JUDGE