

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 596 of 2015

Jaspal Bagh Yadav S/o Late Madhusudan Aged About 52 Years R/o
Near Kali Mandir, Tifra, Police Station Sirgitti, Bilaspur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate Bilaspur, District
Bilaspur Chhattisgarh.

---- Respondent

For petitioner– Shri Rajesh Jain, Advocate.
For Respondent/State – Shri Ramakant Mishra, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

6/11/2015

1. Instant petition arises out of order dated 9/07/2015 wherein the order dated 4/06/2015 passed by the Judicial Magistrate First Class, Bilaspur in Criminal Case No.13040/14 was affirmed. The order pertains to rejection of the custody of the vehicles.
2. As per prosecution case on 14/11/2014 at about 1.30 the vehicles which were parked near Tifra Mandir were being intercepted and during such inspection the said vehicles Tanker bearing No.C.G.10-A/6164 and Tanker bearing No.C.G.10-C/1664 were seized and case was registered under Section 420, 406, 285 read with section 34 of IPC and sections 3 & 7 of the Essential Commodities Act.

3. Learned counsel for the applicant submits that vehicles are being used for transportation. He submits that applicant is registered owner of the vehicles and though case has been filed under Section 3 and 7 of the Essential Commodities Act but no proceeding of the confiscation has been started. He further submits that in absence of any proceeding for confiscation since vehicles were seized on 14/11/2014 no purpose would served in keeping the vehicle to be stranding in police station. He further submits that reply of the State is filed and it confirms that no proceeding for confiscation of the alleged vehicles has been initiated and no direction has been issued under section 6-A of the Essential Commodities Act. He further submits that in some offence other vehicle was also seized which was released by the coordinate bench of this court in Cr.M.P. No.330/2015 on 13/05/2015, therefore he submits that custody of the vehicles may be released.

4. Reply of the State is also perused. Reply would show that it has been categorically averred by the State no confiscation proceeding has been started by the State as contemplated under section 6-A of the Act. Since as has been stated that no confiscation proceeding has commenced bar of jurisdiction envisaged under Section 6-E of the Act did not come in the way of the court below in releasing the vehicle on interim custody. Petitioner is the registered owner of the vehicles. No useful purpose would be served in keeping the vehicle in police custody.

5. Accordingly, I am inclined to direct release of the vehicles Tanker bearing No.C.G.10-A/6164 and Tanker bearing No.C.G.10-C/1664 on interim custody. It is directed that the vehicles (tankers) shall be released

on furnishing personal bond of Rs.2 lakh for each vehicle along with surety of Rs.5 lakh for each vehicle to the satisfaction of the Magistrate. The vehicles shall be released on interim custody of the applicant subject to the conditions that the applicant shall keep the vehicles in proper and safe custody and the same shall be produced before the court as and when directed. In addition, it is observed that if the vehicles are again found used in the commission of any offence, the Magistrate may proceed to take custody of the vehicles. It is made clear that only custody of the vehicles shall be given to the applicant.

6. In the view of the foregoing, the petition is allowed.

Sd/-

(Goutam Bhaduri)

JUDGE