

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 753 of 2017

Phulesh Nishad S/o Shri Dhaneshwar Nishad, Aged About 29 Years R/o Village Amalidih, Thana Magarload, Tahsil Kurud, Civil & Revenue District Dhamtari, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh Through The District Magistrate Dhamtari, Civil & Revenue District Dhamtari, Chhattisgarh.

---- Respondent

For the Petitioner	: Shri Sunil Sahu, Advocate.
For Respondent/ State	: Shri Vivek Singhal, PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13.09.2017

Heard.

1. This petition has been brought under Section 482 of the Code of Criminal Procedure with a prayer to quash the impugned order dated 31.05.2017 passed by the Additional Sessions Judge Dhamtari, refusing to grant of interim custody of the seized vehicle belonging to the petitioner.
2. It is submitted by learned counsel for the petitioner that vehicle Mini Bus bearing registration No.CG-04-JC-1595 has been seized by PS-Magarload, District- Dhamtari in connection with Crime No.76/2017 for offence u/s 304-A of IPC, and after completion of investigation the charge-sheet has been filed.

3. Petitioner is a possessory owner of the vehicle, and he has purchased vehicle from the registered owner Santosh Kumar Dewangan. The registered owner has no objection if seized vehicle is given in interim custody of the petitioner. Petitioner filed an application under Section 457 Cr.P.C before the Court below, which was rejected. This order was challenged in Criminal Revision No. No.29/2017 before the Additional Sessions Judge, Dhamtari which was decided and rejected by order dated 31.05.2017, hence this petition.
4. It is submitted that petitioner is a possessory owner of the vehicle under seizure and that the registered owner has also given an affidavit in support that he has no objection if the vehicle under seizure is given in interim custody to the petitioner. It is submitted that Courts below have arbitrarily and mechanically passed order rejecting the prayer made by the petitioner. Hence, his prayer may be allowed.
5. Learned counsel for the State opposes the petition and the submission made in this respect. It is submitted that petitioner is not entitled for interim custody of the vehicle, who is not registered owner of the vehicle.
6. Heard counsel for both the parties and perused all the documents on record.
7. Vehicle has been seized in connection with offences under Section 304-A of IPC. As submitted the charge-sheet has also been filed after completion of investigation. Hence, the seized vehicle is no longer required for the purpose of investigation and there is no requirements for identifications. Further the submission of the petitioner that he is possessory owner and the registered owner has no objection. His statement is supported by the sale-letter in the affidavit filed by the registered owner Santosh Kumar Dewangan, and for grant of interim custody suitable condition may be imposed.
8. Hence, taking into consideration the facts and circumstances of this case, this petition is allowed at the motion stage. The trial court is directed to make an assessment of the value of the seized vehicle and pass an order

for furnishing supurdnama and personal bond accordingly. Petitioner is directed to produce before the Court the sale-letter of authorization from the registered owner of the vehicle for taking the same in interim custody. Further conditions are imposed that after receiving the vehicle on interim custody, petitioner shall not alienate the same, make any changes of colour etc, and the identification of the vehicle is changed and shall imposed that condition, produced the vehicle as and when ordered by the trial Court. On furnishing of bond and supurdnama as aforesaid the seized vehicle be given to the petitioner on interim custody.

9. Accordingly this petition stands disposed off.

Sd /-

(Rajendra Chandra Singh Samant)
Judge

Jamal