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HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 289 of 2017

- Kundan Kumar Ghodichore S/o Bhaskar Rao, Aged About 50 Years R/o Panchsil Club Para, Ward No. 26, Mahasamund, P. S. Tahsil & District Mahasamund (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through Assistant Commissioner, Excise, Mahasamund, District Mahasamund (Chhattisgarh).

2. Collector, Mahasamund, District Mahasamund (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri Ravindra Sharma, Advocate.
For Respondents/State	:	Shri Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/10/2017

Heard.

1. This petition under Article 226 of the Constitution of India has been brought praying for grant of interim custody of the seized vehicle to the petitioner.

2. It is submitted on behalf of the petitioner that a vehicle bearing registration CG-06 GF-7294 has been seized in connection with Crime No.145/2016 registered at Police Station Tumgaon, District-Mahasamund, for the offence punishable under Section 34 (2) of the CG Excise Act, 1915 (for short 'the Act, 1915'). A proceeding for confiscation of seized vehicle under Section 47 (a) of the Act, 1915 has been initiated, in which the petitioner moved an application for grant of interim custody of seized vehicle, which has been rejected by order dated 27.4.2017.

Hence, this petition.

3. It is submitted that petitioner is the registered owner of vehicle in question and he has nothing to do with the offence committed. A copy of agreement dated 30.4.2016 is placed on record, to show that the seized vehicle was in possession of the hirer for a period of 10 months and during which period the vehicle has been seized. The petitioner being a registered owner is entitled for interim release of vehicle in his favour.
4. Learned counsel for State opposes the petition and submissions made on behalf of the petitioner and stated that petitioner has remedy of revision before the Sessions Court.
5. Heard both the parties and perused the material on record.
6. As regards the maintainability of this petition, when confiscation proceeding is initiated under Section 47(a) of the Act, 1915, he Magistrate concerned has no jurisdiction to pass order granting interim custody and in such cases the writ petition shall lie. In ***Ranjeet Kumar Gupta Vs. State of C.G. & another*** in **ILR 2017 Chhattisgarh 1384** it has been held by the co-ordinate Bench of this Court that in such type of cases only remedy available is petition under Article 226/227 of the Constitution of India. Hence, this petition is maintainable.
7. As submitted and not denied, it is clear that petitioner is the registered owner of vehicle seized and he is not an accused in the case in which the seized vehicle was used by the accused person for transporting illicit liquor. The confiscation proceeding is though going on before the Collector of the concerned District, but that is likely to take some time and therefore the vehicle can be released on interim custody with specific condition to produce the same before the Collector as and when required in the proceeding.

8. Considering all the facts and circumstances of the case that petitioner is the registered owner of the vehicle in question and he has no connection with the offence committed, an order for interim custody may be granted in his favour by imposing suitable conditions. Hence, this petition is allowed at the motion stage itself. The Collector District-Mahasamund is directed to make an assessment of the seized vehicle and pass order accordingly for furnishing bond and *Supurdnama and* on furnishing of such bond and *Supurdnama,* as ordered, to the satisfaction of the Collector-Mahasamund, the vehicle in question be released on interim custody, with the condition that the petitioner shall not transfer or change the description of the vehicle and that he shall produce the said vehicle before the Collector concerned as and when directed during the course of confiscation proceeding.

9. Accordingly, the petition stands disposed off.

Sd/-
(**Rajendra Chandra Singh Samant**)
JUDGE

Nisha