

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 37 of 2017**

Mohan Mehar S/o Madhusudan Mehar, aged about 42 years, R/o Village Kanaktura, Lakhanpur, Police Station Rengali, District Jharsugada, Odisha.

---- Appellant

**Versus**

State of Chhattisgarh through Police Station Pusour, District Raigarh, Chhattisgarh.

---- Respondent

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| For Appellant        | : | Ms. Sharmila Singhai, Advocate |
| For Respondent/State | : | Smt. M. Asha, Panel Lawyer     |

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****11/01/2017**

It is an appeal preferred against the order dated 02.11.2016 passed by the Special Court, Raigarh in MJC No.20/2016 whereby the application under Section 452 preferred by the appellant for releasing of the seized tractor bearing registration No. CG 13 LA/3723 and a trolley bearing No. CG13 LA/2328 has been rejected.

2. The facts in brief are that the present appellant and the other accused persons were prosecuted for the offence under Sections 20 (B) (2) (C) of NDPS Act in Special Case No.16/15 by the Special Judge, NDPS Act, Raigarh. The said special case resulted in acquittal of the appellant as well as the other accused persons vide judgment of acquittal dated 25.04.2016. While passing of the said judgment of acquittal, the Court below made an observation that since the vehicle belongs to the appellant Mohan Mehar and there was no claim made by him for

releasing of the said vehicle, it was ordered for initiating confiscation proceeding of the same.

**3.** Immediately after the judgment of acquittal being passed, the Court below suo motu registered an MJC on the basis of the judgment of acquittal in respect of the confiscation of property and proceedings were drawn. The document Annexure A-4 attached with this appeal pertains to the same. On perusal of the order sheets it reflects that no notice was issued to the appellant herein who is the registered owner of the said vehicle. Pending that MJC, the present appellant filed an application under Section 452 CrPC seeking for release of the said vehicle on Supurdnama and it is this application under Section 452 CrPC which vide the impugned order was rejected on 02.11.2016 leading to the filing of this appeal.

**4.** Counsel for the appellant submits that no notice whatsoever has been issued to the appellant in the MJC which had been initiated by the Court below sou motu on the basis of an order of acquittal and it is only when the present appellant filed an application under Section 452 CrPC, the Court passed the impugned order refusing his case.

**5.** So far as the ownership of the tractor and the trolley is concerned, there is no dispute as there is a finding of the Court below itself in paragraph-34 where it has been accepted that the registration book and the other documents reflect the name of the present appellant to be the owner of the said vehicle. Counsel for the appellant submits that now the proceeding itself has resulted in acquittal of the appellant, he cannot be denied the release of the vehicle. He further submits that no fruitful purpose would be served permitting the respondent to confiscate the said vehicle and in any case after the acquittal order, the confiscation proceeding itself would be bad in law and illegal. He submits that the

appellant is ready to abide by any condition imposed by the Court below for releasing of the said vehicle.

6. State counsel at this juncture after perusal of the records does not dispute the contention put forth by the counsel for the appellant.

7. Considering the submissions made by the counsel for the appellant and also the fact that the case itself has resulted in the acquittal of the appellant, this Court is of the opinion that it is a fit case where the vehicle can be released to the appellant. Accordingly, it is directed that the Court below shall immediately order for releasing of the said vehicle to the appellant subject to the conditions as the Court below deems fit.

8. The appeal thus stands allowed.

**Sd/-**  
**(P. Sam Koshy)**  
**JUDGE**