

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.387 of 2017

- Siyaram Sahu S/o Parkit Sahu Aged About 45 Years R/o Village Baneya (Junapara), Occupation Labourer, Police Station & Tahsil Sitapur, District Sarguja, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Sitapur, District Sarguja, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri V. K. Pandey, Advocate
For Respondent/State	:	Shri Dhiraj Wankhede, GA

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/03/2017

This petition is directed against order dated 17-01-2017, by which, the petitioner's application for interim custody of the vehicle alleged to have been involved in the commission of offence under Section 20(B) of the NDPS Act, has been rejected .

2. Learned counsel for petitioner submits that the vehicle alleged to have been involved in the case belongs to the petitioner and he is the registered owner of the vehicle. Learned counsel for petitioner further submits that the accused happens to be the son of the petitioner, who is alleged to have been involved in the commission of offence and rejection of application for grant of interim custody of the vehicle by the trial Court only on the ground that the accused is son of the petitioner, is not justified. He submits that appropriate conditions may be imposed for production of the vehicle, in the event, there is an order for confiscation of the vehicle alleged to be used in the commission of offence.

3. On the other hand, learned State counsel submits that considering that the vehicle was used to carry ganja by the son of the petitioner, who is an accused, the

Court below has rejected the application holding that the petitioner has failed to prima facie satisfy the Court that he has taken reasonable precaution to ensure that the vehicle is not used in the alleged commission of offence.

4. Having considered the submission of learned counsel for the parties, I find that the main operative reason, on which, the Court below has rejected the application for grant of interim custody is that the vehicle belongs to the petitioner and it is the son of the petitioner, who is alleged to be involved in the commission of offence of carrying narcotics (ganja). The Court below has not discussed any material to show that the petitioner had any reason to know that his son would be committing the offence. At this stage, this would be a subject matter of consideration during trial. In this background, the vehicle may be released by imposing appropriate conditions for production of the vehicle.

5. Therefore, when the petitioner himself is not an accused in this case and further considering that if the vehicle, alleged to be involved in the commission of offence, is not released, it is likely to become rot and without any use, the trial Court is directed to release the vehicle on interim custody on the conditions, as under:

- (A) That, the petitioner shall furnish surety of Rs.75,000/-;
- (B) That, the petitioner shall produce the vehicle as and when directed, and
- (C) That, in case, the vehicle is again found to be involved in commission of offence, order for grant of interim custody of the vehicle shall also be liable to be recalled.

Sd/-
(Manindra Mohan Shrivastava)
Judge