

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 448 of 2017**

Chandramani Yadav, S/o Devanand Yadav, aged about 27 years, R/o Sohanpur, PS Lailunga, Distt. Raigarh (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through the District Magistrate, Ambikapur, Distt. Sarguja (C.G.)
2. Station House Officer, Police Station Ambikapur, Distt. Sarguja (C.G.)

---- Respondents

For Petitioner: Shri Jitendra Shrivastava, Advocate

For Respondents/State: Shri Prasun Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****16/05/2017**

Heard.

(1) Petitioner is a registered owner of four wheeler pick up bearing registration No. UP 64 H-4738. The said vehicle was found involved in the offence punishable under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 (henceforth 'Act, 1985') and Special Criminal Case No. 08/2016 (State of Chhattisgarh Vs. Tikeshwar Yadav & others) is pending consideration in the Court of Special Judge (NDPS Act), Sarguja (Ambikapur).

(2) Petitioner, being the registered owner of the vehicle, made an application for interim custody of vehicle, which has been rejected by the impugned order, against which instant petition under Section 482 Cr.P.C. has been filed questioning the same.

(3) Mr. Jitendra Shrivastava, learned counsel appearing for the petitioner would submit that the petitioner is the registered owner of the vehicle; and the vehicle was being used by the accused without his knowledge and, as such, no useful purpose would be served by keeping the vehicle in the custody of the Court, which is likely to be damaged standing unused and, therefore, the order of the learned Special Judge be set aside and he be granted interim custody of the vehicle in question.

(4) On the other hand, learned counsel appearing for the State would support the impugned order.

(7) I have heard learned counsel for the parties and also given thoughtful consideration to the submissions made therein and perused the record available with utmost circumspection.

(8) This Court, in Criminal Revision No.421 of 2015 decided on 26.06.2015, has held that application under Sections 451 or 457(1) of the Cr.P.C. is maintainable before the Special Judge and it has jurisdiction to consider the matter on its own merit.

(9) In **Ashok Kumar Vs. State of Bihar & others**¹, Their Lordships of the Supreme Court has held that it is not necessary

1 (2001) 9 SCC 718

to keep the vehicle in the compound of the court indefinitely for a very long time till the final disposal of the case.

(10) Following the decision of the Supreme Court and considering the fact that the petitioner is the registered owner of the Pick Up and it is of no use to keep the seized Pick UP at the police station for a long time, it is directed that the Pick Up bearing registration No. UP 64 H-4738 shall be released to the petitioner on the following conditions:-

- (i) Petitioner shall execute a bond in a sum of ₹ 5,00,000/-(five lakhs) with two solvent sureties to the satisfaction of the Special Judge (NDPS Act), Surguja (Ambikapur).
- (ii) Petitioner shall produce the document showing that he is the registered owner of the offending vehicle.
- (iii) Petitioner shall not transfer or dispose of the offending vehicle to any one else and shall not make any change in its body, colour or engine. It is needless to say that make, colour, chassis number, and engine number of the offending vehicle shall be furnished by the petitioner before the trial Court with an undertaking that no damage shall be caused or no part of the vehicle be substituted.
- (iv) the petitioner shall also file an undertaking before the trial Court that the offending vehicle shall not be used for commission of offence; and before giving interim custody of the offending vehicle to the petitioner, three coloured photographs of cabinet size from different angles clearly indicating registration number and other particulars of the vehicle shall be kept on file. The

expenses for the photographs shall be borne by the petitioner.

(v) the petitioner shall produce vehicle either before this Court or before the Collector or such authorities as it may be directed, on his own expenses.

(13) Consequently, the impugned order is set aside. The Cr.M.P. is allowed accordingly.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-