

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 373 of 2017

Fool Singh Patel S/o Parsadi, Aged About 50 Years R/o
Semarchunwa, Police Station Jarhagaon, District Mungeli
Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Lalpur, District Mungeli Chhattisgarh

---- Respondent

For applicant - Shri Rajkumar Pali, Advocate.
For Respondent/State –Shri Sangarsh Pandey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

18/09/2017

1. This petition is against the order dated 17/10/2016 passed by the Special Judge (Narcotics) Mungeli District Mungeli (C.G.) in Special Criminal Case No.H 19/2016 wherein the application for releasing the vehicle on Supurdnama from custody of the Police has been rejected.

2. As per the prosecution case a vehicle bearing No.CG 28/4963 was seized which is alleged to be used in the crime under Section 20-b of NDPS Act and the vehicle has been kept in Police Station. As per the prosecution case on 27/07/2016 on a information received that the cannabis are being transported in motorcycle raid was made and from Tikaram Sahu, Milan Singh, Dharamveer, Kaushal Kurre 8 kg 500 gms cannabis were seized separately. Thereafter, an application was preferred by the owner of the vehicle Phool Singh Patel who is father of one of the accused but the application for custody of the vehicle was dismissed. Hence this petition.

3. Learned counsel for the applicant would submit that no purpose would be served to keep the vehicle in police station and dismissal of the

application only by taking provisions of Sub section-3 of Section 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 is erroneous. It is stated that if the vehicle is kept in open it will be damaged and no purpose would be served, therefore same may be returned.

4. Per contra, learned State counsel opposes the same.

5. Perusal of Sub-section-3 of Section 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") makes its obligatory that in case any conveyance used in carrying any narcotic drug or psychotropic substance, the same would be liable for confiscation, unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself or his agent and he had taken all reasonable precautions against such use. However, section do not put any bar for release of the vehicle and language of the section would show that any finding at this stage may affect the trial at the later stage whether it goes in favour of confiscation or otherwise.

6. It is matter of common knowledge or experience that as and when the vehicles are seized and kept in police stations, not only do they occupy substantial space in police stations, but upon being kept in open are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than two weeks. Apart from the above, it is also matter of common knowledge that several valuable and costly parts of the said vehicle are either gets junked or are cannibalized so that the vehicles become unworthy of being driven on road. Therefore, no purpose will be served to keep the vehicle in police custody for a long time as it will turn junk and also occupy the substantial place of police station.

7. Considering the entirety of the facts, the reason assigned by the

learned court below in the impugned order dated 17/10/2016 cannot be appreciated.

8. Under the circumstances, following the principles laid down in **(2010) 6 SCC 768 and (2002) 10 SCC 283**, I am inclined to release the vehicle in favour of the applicant. Accordingly, the vehicle shall be released on the following conditions:-

- (i) Before release of vehicle proper panchnama be prepared.
- (ii) Photographs of vehicle should be taken and bond should also be produced that the vehicle would be produced if required at the time of trial.
- (iii) Proper security i.e. personal bond of Rs.75000/- and like sum of surety be obtained before release of vehicle.

9. In view of foregoing discussion, the petition succeeds and is allowed.

Sd/-

(Goutam Bhaduri)

JUDGE