

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.511 of 2017**

Mulayam Singh Yadav, S/o Harishchand Yadav, aged about 22 years, R/o Bandan Yadav Para, Dist. Surguja (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh Through the District Magistrate, Ambikapur, Dist. Surguja (CG)
2. Station House Officer, Police Station Sitapur, Dist. Surguja (CG)

---- Respondents

For Petitioner	:	Mr.Jitendra Shrivastava, Advocate
For Respondents	:	Mr.Bhaskar Payasi, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

23/06/2017

1. Petitioner is the registered owner of motor-cycle Hero Passion bearing registration No.CG 15 CW-7250. The said vehicle was found involved in the offence punishable under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Special S.T.No.105/2010 (State of Chhattisgarh Vs. Ganesh @ Ganu and another) is pending consideration in the Court of Special Judge (NDPS) Surguja Ambikapur (CG).
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, the 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 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.
5. 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.
6. In the matter of **Ashok Kumar Vs. State of Bihar & others**¹, Their Lordships of the Supreme Court have held that it is not necessary to keep the vehicle in the compound of the court indefinitely for a very long time till the final disposal of the case.
7. Following the decision of the Supreme Court and considering the fact that the petitioner is the registered owner of motor-cycle Hero Passion and it is of no use to keep the seized vehicle at the police station for a long time, it is

¹ (2001) 9 SCC 718

directed that motor-cycle Hero Passion bearing registration No.CG 15 CW-7250 shall be released to the petitioner on the following conditions:-

- (i) Petitioner shall execute a bond in a sum of ₹ 1,00,000/-(one lakh) with two solvent sureties to the satisfaction of the Special Judge (NDPS), Surguja Ambikapur (CG)
- (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) 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) Petitioner shall produce vehicle either before this Court or before the Collector or such authorities as it may be directed, on his own expenses.

8. Consequently, the impugned order is set aside. The Cr.M.P. is allowed accordingly.

Sd/-

(Sanjay K. Agrawal)

Judge

B/-