

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.696 of 2017**

A.K.Das S/o. Late P.D. Das, aged about 68 years, R/o. Sakin, Haldibadi, Chirmiri, Tehsil Knandwa, District Korea, through its registered power of attorney Mohd. Wasim, S/o. Naseem Akhtar, aged about 23 years, R/o. Dabripara, Baikunthpur, District Korea (CG)

---- Petitioner

Versus

State Of Chhattisgarh Through Cosmetics Inspector, Police Station-Baikunthpur, District-Korea (CG)

---- Respondent

For Petitioner	:	Mr.Prasoon Agrawal, Advocate
For Respondent	:	Mr.Gary Mukhopadhyay, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/06/2017

1. Petitioner is a registered owner of four wheeler Maruti 5-seater bearing registration No.CG 16 B/2269. The said vehicle was found involved in the offence punishable under the provisions of the Drugs and Cosmetics Act, 1940 and the Narcotic Drugs and Psychotropic Substances Act, 1985 and case (State of Chhattisgarh Vs. Mohd.Wasim) is pending consideration in the Court of Special Judge (Drugs and Cosmetics Act), Korea, Baikunthpur (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 instant petition under Section 482 Cr.P.C. has been filed questioning

the same.

3. Mr. Prasoona Agrawal, 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.
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 **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 the Maruti four wheeler and it is of no use to keep

¹ (2001) 9 SCC 718

the seized vehicle at the police station for a long time, it is directed that the four wheeler bearing registration No.CG 16 B/2269 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 (Drugs and Cosmetics Act), Korea, Baikunthpur (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/-