

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 934 of 2016

- Babu Sarkar @ Dega S/o Harilal Sarkar Aged About 30 Years R/o 18 Block, Mana Camp, Raipur, Tahsil & District- Raipur, Chhattisgarh.
----- **Petitioner**

Versus

- State of Chhattisgarh through the Station House Officer, Police Station- Mana Camp, Raipur, Tahsil & District- Raipur, Chhattisgarh.
--- **Respondent**

For the applicant	:	Mrs. Ranjana Jaiswal, Advocate
For the State	:	Mr. Suryakant Mishra, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

16.08.2017

1. This petition is against the order dated 30.08.2016 passed by the learned Special Judge, NDPS, Raipur wherein the application for releasing the vehicle on *Suprudnama* from custody of Police has been rejected.
2. As per the case of prosecution, a Mahindra Motorcycle bearing Regn.No.C.G.04/HP/0908 was seized by the police station Mana in a Crime No.98 of 2016 u/s 20-B of the Narcotic Drugs and Psychotropic Substances Act on 02.06.2016 on the allegation that the applicant was carrying 2 Kgs., of contraband cannabis on the said vehicle. Subsequently the vehicle was seized and the petitioner who claims to be the owner of the vehicle has filed the application for releasing the vehicle on *Supurdnama* which was dismissed on the ground that communication for confiscation of the seized vehicle has been made to the District Magistrate as such the vehicle may not be released.

3. Learned counsel for the applicant would submit that the State has not categorically come out with the fact that whether the confiscation proceeding has commenced or not and only the averments have been made that the confiscation proceedings are going on. Therefore, no purpose would be served to keep the motorcycle for long in police station without any use and it will cause loss to the private property. Therefore under the circumstances, the vehicle may be handed over to the applicant who is the registered owner on Suprudnama
4. Per contra, learned State Counsel prays for time to file reply. A perusal of the case file would show that the reply is on record. The order sheet would show that on 15.5.2017, the State was directed to make categorical submission as to whether the confiscation proceedings have been commenced or not. Thereafter on different occasions when the case was fixed, each and every time, adjournments were sought by the State to show that the confiscation proceedings are going on till date. It appears that no documents have been filed to show the fact that the confiscation proceedings have been commenced. The seizure of the vehicle appears to have been made on 02.06.2016 and considerable period has elapsed.
5. 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 whether 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.

6. Considering the entirety of the facts, the reason assigned by the learned Court below in the impugned order dated 30.08.2016 cannot be appreciated
7. 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 petitioner. 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.1 lakh and like sum of surety be obtained before release of vehicle.
8. In view of foregoing discussion, the petition succeeds and is allowed.

Sd/-

**GOUTAM BHADURI
JUDGE**