

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1515 of 2017

Pawan Kumar S/o Brijlal Aged About 35 Years R/o Village
Dumarkherva, Post Andi, Police Station Pendra, Tahsil Marvahi,
District Bilaspur Chhattisgarh (Registered owner of Seized Vehicle C
G-13- Ob-0749)
--- **Petitioner**

Versus

State of Chhattisgarh through Police Station Pendra, District Bilaspur
Chhattisgarh
--- **Respondent**

For the applicant	:	Ms. Soniya Kuldeep, Advocate
For the State	:	Mr. Neeraj Sharma, Dy. Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13.12.2017

1. This petition is against the order dated 06.10.2017 passed in Criminal Revision No.21/2017 by the Additional Sessions Judge, Pendra Road, wherein the rejection order to hand over the custody of the vehicle passed by the JMFC on 01.09.2018 in Criminal Case No. 348 of 2017 was affirmed.
2. As per the prosecution case, on 29.06.2017 a raid was conducted by the police and during such raid, a Scorpio vehicle bearing Registration No. C.G.13-OB-0749 was intercepted and on search being made, 17.400 bulk litres of liquor was seized from the vehicle and in such incident the vehicle was also seized. The inmates of the vehicle were Ramlal Panika and Lalan Giupta. Subsequently the charge sheet was filed against them u/s 34(2) of the Excise Act . Thereafter an application for *Suprudnama* was filed by the present applicant before the JMFC which was dismissed and when the said order was challenged in revision before the

Additional Sessions Judge, the same was also rejected. Therefore the instant petition.

3. Learned counsel for the petitioner would submit that the State has not categorically come with the fact that the confiscation proceedings have been commenced and no document has also been filed along-with the reply. It is further contended that the petitioner is owner of the vehicle and without any rhyme and reason the vehicle if is allowed to remain idle in the police station it will not only loose its commercial value but will also prone to fast natural decay and damage. It is further contended that under the facts and circumstances, no purpose will be served to get the vehicle in custody, consequently the same may be released.
4. Per contra, learned State Counsel opposes the application.
5. Perused the documents and the order dated 06.10.2017. A perusal of the impugned order would show that only reason has been given that since the vehicle was used in commission of offence under the Excise Act and since the proposal has been sent for confiscation of the vehicle as such the refusal to hand over the custody of the vehicle was passed.
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 whether conditions. Even a good maintained vehicle looses 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 06.10.2017 cannot be appreciated and accordingly the same is set aside.
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 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 furnished that the vehicle would be produced if required at the time of trial.
- (iii) Proper security i.e., personal bond of Rs.5 lakhs 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