

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 214 of 2018

Sanjay Kumar Yadav S/o Shri Baljeet Yadav Aged About 22 Years R/o
C/o Dinesh Kumar Paswan, Baigin Dabhar, Ward No. 24, Rampur
District Korba Chhattisgarh At Present R/o Ward No. 10, Bhatta Dafai,
Gelhapani, P. S. Chirmiri, District Korea, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station
Nagarnar District Bastar, Chhattisgarh

--- Respondent

For petitioner	:	Shri B.P. Singh, Advocate
For the State	:	Shri Anil Pillai, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

7/05/2018

Heard.

1. This instant petition is against the order dated 16/11/2017 wherein application to receive the interim custody of the vehicle bearing number CG 12 R 5081 has been dismissed.
2. As per the case of prosecution, scpio vehicle bearing number CG 12 R 5081 was seized while it was being used in commission of offence under the NDPS Act on 24/04/2017 and from the vehicle 50 kgs of cannabis were seized. At the relevant time vehicle was being driven by Prakash Kumar and Horilal Kenwat was one of the inmates
3. Learned counsel for the petitioner would submit that confiscation proceeding has not been yet commenced and charge sheet has been filed, vehicle is in custody since 24/04/2017 and no purpose would be served to keep the vehicle in the police station without any use and it

will only lose its value and it may turn junk, therefore vehicle may be returned.

4. Learned State Counsel opposes the same and would submit that the vehicle may be used as evidence during the trial.
5. Perused the documents as also reply of the State. Perusal of the documents filed alongwith the petition shows that the petitioner is the registered owner of the vehicle bearing number CG 12 R 5081. Reply of the State is completely silent to the fact as to whether any confiscation proceeding has commenced or not. Seizure of the vehicle appears to have been made on 24/04/2017 and the petitioner it appears was not present while vehicle was seized.
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 16/11/2017 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 Scorpio vehicle bearing number C.G. 12 R 5081 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.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