

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1010 of 2018**

Uma Mishra W/o Shri Deepnarayan Mishra, Aged about 30 years, r/o Ward No.7, Motisagar Para Korba, Police Station- Kotwali Korba, Tahsil & district- Korba (C.G.).

----Applicant

Versus

State of Chhattisgarh, Through the Station House Officer, Police Station- Kotwali, District- Korba (C.G.).

---- Respondent

For Applicant	:	Mr. Samir Singh, Advocate
For Respondent	:	Mrs. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel
Order on Board

22/10/2018

1. By way of the present Criminal Revision filed under Section 397 read with 401 of Cr.P.C., the applicant has challenged the order dated 04/08/2018 passed by Special Judge (NDPS), Korba, District- Korba in M.J.C No. 04/2018, whereby the application of the applicant for releasing vehicle Activa bearing registration No. CG12-AU-6150 on Supurdnama was rejected.
2. Brief facts of the case are that on 20/07/2018, Investigating Officer after receiving information from the informant stopped the said Activa and searched. He seized total 6 Kg of contraband (Ganja) from the possession of accused- Ganesh Pal, Manas Dwivedi and Deepak Pandey (each were carrying 2-2 Kg Ganja packets). The said Activa was also seized from the possession of accused- Ganesh. The applicant, being registered owner of the said vehicle, had preferred an application

under Section 457 Cr.P.C for temporary custody of the said vehicle which has been rejected by the learned Special Judge (NDPS), Korba. Hence, this revision.

3. Learned counsel for the applicant submits that the applicant is the registered owner of the vehicle which was alleged to be involved in commission of crime. There is no involvement of the present applicant in the alleged offence and accused- Ganesh Pal had taken the vehicle from the present applicant. He further submits that the seized vehicle of which the applicant is registered owner is lying idle in the police station since 20/07/2018 and no fruitful purpose would be served if the vehicle remains idle in the custody of the police personnels exposed to the extreme weather conditions. The vehicle would get decayed day by day and would further deteriorate by passage of time to the extent that it would become unusable after some time and therefore in the interest of justice the vehicle may be released.
4. Learned counsel appearing on behalf of the State opposes the claim of the applicant and submits that the vehicle has been used in transportation of contraband (Ganja), therefore, it is liable for confiscation. However, he admitted that no confiscation proceeding is going on.
5. I have heard learned counsel for the parties and perused the material available on record.
6. Considering the fact that the applicant is the registered owner of the seized vehicle and also taking note of the fact that the confiscation proceeding has not been started, no useful purpose would be served if

the seized vehicle is allowed to get exposed in the extreme weather conditions at the police station. On the contrary, if the vehicle can be released to the applicant subject to certain conditions she can use it so that the vehicle does not become junk after some time.

7. For the foregoing reasons, the impugned order rejecting the application for releasing of the seized vehicle on Supurdnama is not proper and the same is set-aside.
8. It is directed that the seized vehicle belonging to the applicant i.e. Activa bearing registration No. CG12-AU-6150 be released to the applicant upon her furnishing a personal bond of Rs. 50,000/- with one surety to the satisfaction of the concerned Court below for return of the said vehicle, if required at any point of time. In the bond, she shall give an undertaking that she shall not change the ownership of the vehicle, she shall not change the colour of the vehicle and neither shall she create a third party right or interest over the said vehicle. She shall also undertake that she shall produce the vehicle as and when required by the prosecution during course of investigation, trial and even at the appellate stage. She shall further undertake to produce the vehicle to any competent authority under different statutes as and when required.
9. With the aforesaid observations, the Criminal Revision is allowed.

Sd/-
(Arvind Singh Chandel)
Judge