NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 1089 of 2018

Md. Sabir Khan S/o Athivar Khan, aged about 50 years, R/o Mominpura P.S. & Tahsil Ambikapur, District- Surguja (C.G.).

----Applicant

Versus

State of Chhattisgarh, Through P.S.- Gandhinagar, Distt- Sarguja (C.G.).

---- Respondent

For Applicant	:	Mr. A.N. Pandey, Advocate
For Respondent	:	Mr. Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel
Order on Board

27/10/2018

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 18/09/2018 passed by Special Judge (NDPS), Ambikapur in Criminal Case No. 212/2018, whereby the application of the applicant for releasing the vehicle on Supurdnama was rejected.

2. Brief facts of the case are that on 02/09/2018 on the basis of informationr received from the information, accused- Yakub Khan was found in illegal possession of contraband cough syrup, which was kept for selling. He was transporting the said articles on motor-cycle bearing registration No. CG10 CK 5817. The vehicle was seized. The present applicant, being owner of the said vehicle, filed an application for releasing the said vehicle on Supurdnama, which was rejected vide impugned order dated 18/09/2018. 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. He further submits that there was no involvement of the present applicant in crime in question. No confiscation proceeding has been started. The seized vehicle of which the applicant is registered owner is lying idle since 02/09/2016 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.

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 he 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. TVS

Star Motor cycle bearing registration No. CG15 CK 5817 be released to the applicant upon his furnishing a personal bond of Rs. 100,000/- with one local 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 he shall give an undertaking that he shall not change the ownership of the vehicle, he shall not change the colour of the vehicle and he shall not create a third party right or interest over the said vehicle. He shall also undertake in the bond that he shall produce the vehicle as and when required by the prosecution during course of investigation, trial and even at the appellate stage. He 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

Rahul