

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 211 of 2019**

1. Santosh Ganjir S/o Shri Itwarilal Sahu, 60 years, Assistant Grade-I, Regional Account Officer, CSEB Geedam Road, Jagdalpur, Distt. Bastar (C.G.).
2. Satish Ganjir S/o Shri Itwarilal Sahu, aged about 54 years, R/o Village Chandli, P.S. Kotpad, District Koraput (Orissa).

----Applicants**Versus**

State of Chhattisgarh through E.O.W/A.C.B. Raipur (C.G.).

---- Respondent

For Applicant	:	Mr. Keshav Dewangan, Advocate
For Respondent	:	Mr. Alok Nigam, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****19/03/2019**

1. With the consent of both the parties, the matter is heard finally.
2. This revision has been preferred against order dated 06/01/2019 passed by the Special Judge (Prevention of Corruption Act), South Bastar Dantewada (C.G.) in Special Case No. 04/2018 (Crime No. 4/2017 by ACB, Raipur), whereby the learned trial Court has rejected the application under Section 451 of the Cr.P.C.
3. As per prosecution story, on 14/02/2017 an FIR was registered against brother of Applicants namely Subhash Ganjir for the offences punishable under Section 13 (1) (e) and 13 (2) of the Prevention of the Corruption Act, 1988. On 15/02/2017, a search was made in the house of Subash Ganjir at Brindawan Colony, Jagdalpur and also in his parental house situated at village Chandli, Tah. Kotpad, Distt. Koraput. Thereafter, on 16/02/2017, a search was made in his other residential premises at

Dantewada and various recoveries were made and for which different inventories were prepared. During course of recoveries, certain properties were recovered from the house of the Applicants. However, during course of investigation, the Prosecution found that the documents and other recoveries are not related to accused- Subhash Ganjir and same were kept in a separate list as 'Schedule-B'. It was also found by the prosecution that the recoveries made from the residence of present Applicants are not related to accused Subhash Ganjir, therefore a separate list/ schedule was prepared of those articles which are not related with the prosecution case and was marked as Schedule-B. After filing of the charge-sheet, the Applicants moved an application under Section 451 of the Cr.P.C before the trial Court for taking those properties which were mentioned in schedule B on Supurdnama and vide impugned order dated 05/01/2019, the learned Special Judge rejected the application on the grounds that examinations of some witnesses have remained and while recording their statements, the seized property may be required. Thus, this revision has been filed.

4. I have heard counsel for the parties and perused the record.
5. From perusal of the impugned order and records available, it is clear that a separate list/schedule-B has been submitted with the charge-sheet before the trial Court, which has been admitted by the ACB and the ACB has shown no objection to give the Schedule-B property to the Applicants. Thus, it is clear that schedule-B property is not related to the Subhash Ganjir and the ACB has shown no objection to give temporary custody of the scheduled-B property to the Applicant. Therefore, the ground on which the application of the Applicant was rejected cannot be

sustainable.

6. For the foregoing reasons, the impugned order rejecting the application for releasing of the seized Scheduled-B property on Supurdnama is not proper and the same is set-aside.
7. It is directed that the seized Scheduled-B property be released to the Applicants upon their furnishing a personal bond and two sureties each of Rs. 5 lakhs to the satisfaction of the concerned Court below for return of the said property, if required at any point of time. In the bond they shall give an undertaking that they shall not change create a third party right or interest over the said property. They shall also undertake that they shall produce the said property as and when required by the prosecution during course of investigation, trial and even at the appellate state. They shall further undertake to produce the said property to any competent authority under different statutes as and when required.
8. With the aforesaid observations, the Criminal Revision is allowed.

Sd/-
(Arvind Singh Chandel)
Judge