

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 419 of 2019**

Lahari Lal Jat S/o Amarchand Jat, aged about 38 years R/o Sihana, Tahsil and Police Station Rashmi, District Chittaudgarh (Rajasthan)

----Applicant**Versus**

State of Chhattisgarh through the Station House Officer, Police Station City Kotwali, Bemetara, District Bemetara (C.G.).

---- Respondent

For Applicant	:	Mr. Ram Kumar Tiwari, Advocate
For Respondent	:	Mr. D.P. Singh, Dy. Advocate General

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****09/05/2019**

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 06/03/2019 passed by Special Judge (NDPS), District Bemetara in NDPS Case No. 01/2019, whereby the application of the applicant for temporary custody of the vehicle was rejected.
2. As per prosecution story, on 24/09/2018 on the basis of secret information received from the informant, the police party searched a vehicle Bolero bearing registration No. RJ09 GB 1771. On being searched total 285.600 kg contraband (Ganja) was found, which has been seized from the possession of accused- Shiv Jaat. Offence under section 20 (B) of the NDPS Act has been registered. The vehicle was also seized. Thereafter, a notice under Section 160 Cr.P.C has been given to the Applicant by the concerned Station House Officer, P.S. Bemetara. Being owner of the vehicle, the Applicant appeared before

them and produce relevant documents of the vehicle. But when the delivery of the vehicle was not given to the Applicant, then he moved an application for interim custody of the said vehicle before the Appellate Court, which has been dismissed vide impugned order dated 06/03/2019. Thus, 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 an agreement was executed between the Applicant and one Mahaveer on 13/09/2018 for running the said vehicle on rent and he has handed over the said vehicle to Mahaveer Singh. Thereafter, on 24/09/2018 accused Shiv has been caught while transporting the Ganja, which was not within the knowledge of the present Applicant. He further submits that there is no involvement of the Applicant in the crime in question. The seized vehicle of which the Applicant is registered owner is lying idle 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. Bolero bearing registration No. RJ09 GB 1771 be released to the applicant upon his furnishing a personal bond of Rs. 400,000/- 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 he shall give an undertaking that he shall not change the ownership of the vehicle nor shall he change the colour of the vehicle neither shall he create a third party right or interest over the said vehicle. He shall also undertake that he shall produce the vehicle as and when required by the prosecution during course of investigation, trial and even at the appellate state. He shall further undertake to produce the vehicle to any competent authority under different statutes as and when required. So far as surety is concerned, it shall be equal to the present day value of the vehicle seized or to the satisfaction of the concerned Trial Court.
9. With the aforesaid observations, the Criminal Revision is allowed.

Sd/-
(Arvind Singh Chandel)
Judge