

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 499 of 2019

- Dinesh Kumar Jain S/o Shri Satyapal Jain, Aged About 34 Years, R/o Shanti Nagar, Church Road, Jagdalpur, District Bastar Chhattisgarh., District : Bastar (Jagdalpur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through State Economic Offences, Investigation and Anti Corruption Bureau, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Applicant– Shri Manoj Paranjpe, Advocate.

For State/respondent – Shri Devendra Pratap Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

19-12-2019

1. This revision has been brought challenging the legality, propriety and correctness of the order dated 20-02-2019 passed in Special Case No.11/2018 by the Special Court under the provisions of Prevention of Corruption Act, North Bastar Kanker dismissing the application for grant of seized cash amount on interim custody to the applicant.

2. It is submitted that the investigation in Crime No.15/2017 itself reveals that the cash amount was handed over to co-accused Ramkaran Kumhar, which was seized by Kanker police. Further, the applicant has also submitted explanation to the Investigation Officer. The matter was reported to the Income Tax Department and the Income Tax Department has cleared the applicant. Therefore, it cannot be said that there is any dispute regarding the cash amount seized in this case. The applicant has entitlement to receive the cash amount on interim custody during pendency of the trial, hence, rejection of application filed by the applicant by the trial Court is erroneous which is needed to be interfered with.

Reliance has been placed on the judgment of Hon'ble the Supreme Court in the matter of **Sunderbhai Ambalal Desai Vs. State of Gujarat**, 2002

LawSuit(SC) 1346.

Reliance has also been placed on the judgment of High Court of Madras (Madurai Bench) in the matter of **Panneer Selvam Vs. State of Tamil Nadu; Duraipandi; Seemaichamy; Vinoth Kannan; Balasubramanian @ Balu; Killadi @ Suresh; Sarles @ Saravanan; V C Raja; Bose @ Bose Pandiyan; David; Thaniyal; Ganesan**, 2016 LawSuit(Mad) 1701.

Reliance has been placed also on the judgment of High Court of Allahabad (Lucknow Bench) in the matter of **Ghanshyam Vs. State of U.P.**, 2010 LawSuit(All) 3143 and on the judgment of High Court of Rajasthan in the matter of **Narendra Kumar Vs. State of Rajasthan**, 2017 LawSuit(Raj) 2110.

3. Learned counsel for the State/respondent opposes the petition and the submission made. It is submitted that there is clear evidence that the cash amount was recovered and seized from the possession of co-accused Ramkaran Kumhar. The story made by the applicant to defend the co-accused has been falsified in the investigation itself on the basis of the statements given by the witnesses. Therefore, the learned Court below has not committed any error in passing the impugned order. Therefore, this revision petition be dismissed.

4. Heard learned counsel for the parties and perused the documents.

5. It is claim of the applicant that he was the person who handed over the cash Rs.11,00,000/- to co-accused Ramkaran Kumhar for carrying and supplying to a person named as Aetram @ Bhola in Raipur. The statement given by the applicant in the investigation has been verified from the statement of other witnesses and there is no clear admission made by the other witnesses, which shows that the stand of this applicant that he was the person who supplied the cash amount to the co-accused is yet to be proved before the trial Court, therefore, it is not an undisputed fact. This applicant is not the person from whom the cash was seized and the person from whom the cash was seized, i.e., the co-accused Ramkaran Kumhar himself is not making any prayer for

release of the cash amount on interim custody in his favour. Hence, for this reason that claim of the applicant on the cash amount seized is disputed by the respondent side. Therefore, denial of the trial Court to grant cash amount on interim custody to this applicant cannot be said to be erroneous in any respect. Therefore, I do not find any substance in this revision petition, which is dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge