

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 622 of 2019**

- Dipak Kumar Kushwaha S/o Aniruddh Kushwaha, aged about 25 years, R/o Murta, P.S. Sitapur District Surguja (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh through the P.S. Sitapur District- Surguja, C.G.

---- Respondent

For Applicant	:	Ms. Sangeeta Soni, Adv.
For Respondent/State	:	Dr. Anil Tripathi, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****04.09.2019**

1. By way of the present Criminal Revision filed under Section 397 read with Section 401 of Cr.P.C., the applicant has challenged the order dated 14/03/2019 passed by Special Sessions Judge (NDPS) Ambikapur, District- Surguja, in Special Criminal Case No. 03/2019, whereby, the application of the applicant for releasing the vehicle on Supurdnama was rejected.
2. Petitioner being the registered owner of the vehicle bearing No. CG 15 DH 1081, made an application for Supurdnama under the provision of Code of Criminal Procedure for custody of the said vehicle stating inter-alia that the said vehicle is likely to be damaged of explore of sun and rain and as such no useful purpose would be served by keeping the vehicle in the Court's custody, and, therefore, it be

handed over to the petitioner during pendency of the criminal case.

3. Special Judge, by its impugned order dated 14.03.2019, rejected the said application on the ground that vehicle is seized in case of NDPS.
4. Feeling aggrieved and dissatisfied with the order of Special Judge, rejecting his application for interim custody of the vehicle under Section 451 (Cr.P.C), this revision has been filed on the ground that order of Special Judge is unsustainable and bad in law.
5. Learned counsel for the applicant submits that the applicant is registered owner of the vehicle which was alleged to be involved in commission of crime. The learned Court below has failed to consider that the provisions under Section 457 of Cr.P.C. is to protect the life of the vehicle from getting deterioration. It is well settled that Section 60 of NDPS Act would not preclude the Court from granting Supurdnama of the vehicle involved in NDPS case when no confiscation proceeding has been initiated. He further submits that the vehicle would get decayed and would further deteriorate by the passage of time to the extent that it would be useless after sometime, and, therefore, in the interest of justice, the vehicle may be released on supurdnama.
6. Learned counsel appearing on behalf of the State opposes the claim of the applicant.
7. I have heard learned counsel for the parties and perused the material available on record.
8. In ***Ashok Kumar v. State of Bihar***, [(2001) 9 SCC 718] Hon'ble Supreme Court has held that it is not necessary to keep the vehicle in the compound of the Court indefinitely

for a very long time till the final disposal of the case. This Court also in ***Dharmraj v. State of Chhattisgarh (CRR 907/2018)*** and ***Manoj Kumar Sharma v. State of Chhattisgarh (2015 SCC Online Chh 1132)*** has held same principles.

9. Following the decision of the Supreme Court and this Court's previous orders, and considering the fact that the applicant is the registered owner of the Pickup Van and is of no use to keep the seized van at the police station for a long time, it is directed that the Pickup Van bearing registration No. CG 15 DH 1081 shall be released to the applicant on the following conditions:

- Petitioner shall execute a bond in a sum of Rs. 50,000/- (fifty thousand) with one surety of equal amount to the satisfaction of the Special Judge (NDPS Act, 1985), Jagdalpur.
- Petitioner must satisfy the Court that he is the registered owner of the offending vehicle.
- Petitioner shall not transfer or dispose of the offending vehicle to anyone else and shall not make any change in its body, colour or engine. It is needless to say that make, colour, chassis number, and engine number of the offending vehicle shall be furnished by the petitioner before the trial Court with an undertaking that no damage shall be caused or no part of the vehicle be substituted.
- The petitioner shall also file an undertaking before the trial Court that the offending vehicle shall not be used for commission of offence; and before giving interim custody of the offending vehicle to the petitioner, three

coloured photographs of cabinet size from different angles clearly indicating registration number and other particulars of the vehicle shall be kept on file. The expenses for the photographs shall be borne by the petitioner.

- The petitioner shall produce vehicle either before this Court or before Collector or such authorities as it may be directed, on his own expenses.

10. Consequently, the impugned order is set-aside.

11. Accordingly, the revision is allowed.

Sd/-
(Rajani Dubey)
JUDGE