

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 826 of 2019

- Smt. Kamal Yadav W/o Chandra Bhushan Yadav Aged About 45 Years R/o Gokulganj, Sitamani Korba , District Korba Chhattisgarh.,

---- Applicant

Versus

- State Of Chhattisgarh Through - Station House Officer, Police Station - Kotwali, District Korba Chhattisgarh.

---- Respondent

 For Applicant : Shri Syed Imtiyaz Ali, Advocate
 For Respondent/State : Shri Akhtar Hussain, Panel Lawyer

Hon'ble Smt. Justice Rajani Dubey
Order On Board

13.8.2019

1. Heard on admission.
2. The present revision is directed against the order dated 15.5.2019, passed by the Special Judge (NDPS), Korba, District Korba in Special NDPS Case No.29/2018, whereby the application filed by the applicant under Section 451 of the Cr.P.C. for Supurdnama of the vehicle Bolero bearing registration No. CG/12/AR/6588 has been dismissed.
3. Fact in brief are that the applicant is registered owner of the vehicle Bolero bearing registration No.CG12/AR/6588 and the vehicle was found involved in criminal case No.29/2018 (State of C.G. vs. Chandra Shekhar and Ors.) pending in the Court of Special Judge (NDPS), Korba. It was further alleged that on the date of incident, the said vehicle was found carrying 4 cartoons filled with Cofimaxx syrup and Pyeevon Spas Spus capsules. The applicant moved an application under Section 451 Cr.P.C. for interim custody of the vehicle, but the learned

trial Court dismissed the application vide order dated 15.5.2019. Hence, this revision.

4. Learned counsel for the applicant submits that the order passed by the learned trial Court is perverse, illegal and contrary to law, therefore, the same is liable to be set aside. The applicant is using the vehicle for personal and domestic use. He submits that if the seized vehicle is kept in open place in Police Station for a long time, there is danger of it being damaged by vagarious of weather and no useful purpose will be served by detaining the vehicle in the police station till the trial is concluded. The applicant is ready and willing to comply with all the conditions which may be imposed for production of the vehicle seized or comply the order of confiscation which may be passed after trial by the trial Court. He placed reliance in the matter of **Ganga Hire Purchase Pvt. Ltd. V. State of Punjab and Ors., 1 (1999) 5 SCC 670** and the order passed by this Court on 25.10.2016 in **Cr. Revision No. 989/2016**.
5. On the other hand, learned counsel for the State opposes the criminal revision and submits that narcotic drugs have been recovered from the vehicle and if the vehicle is released at this stage, it would frustrate the purpose of the NDPS Act, therefore, the revision is liable to be dismissed.
6. I have heard learned counsel for the parties and perused the impugned order.
7. Hon'ble the Supreme Court has clearly held in Ganga Hire Purchase (supra) that interim custody of seized vehicle cannot be denied to a registered owner on the ground that the vehicle

is liable to be confiscated under Section 60 of the NDPS Act. This Court in order dated 25.10.2016 passed in Cr. Revision No. 989/2016 has also reiterated the same principle.

8. The applicant is registered owner of the vehicle and she is not accused before the trial Court. Criminal proceedings as well as process of confiscation is on way and it is in progress and therefore, unless and until it is established that the vehicle in question was actively used for carrying of the narcotic drug with the knowledge of the applicant/registered owner particularly, taking in view that the vehicle is lying unused in open place in the police station and there is every chance that the vehicle is likely to be damaged if it is kept unused for fairly long time or till the disposal of the criminal case or confiscation proceeding and considering the plea raised by the applicant, the impugned order passed by the trial court is set aside.
9. Keeping in view that the property seized is a Car, in light of the aforesaid decisions of the Hon'ble Supreme Court and the order passed by this Court, it is directed that the impugned vehicle Bolero bearing registration No. CG/12/AR/6588 shall be delivered to the applicant on Supurdnama subject to her producing the original registration certificate and further on satisfying the following conditions :-
 - (I) The applicant/registered owner shall furnish a personal bond in the sum of Rs.10,00,000/- with one surety of Rs.10,00,000/- to the satisfaction of the trial Court on undertaking to produce the vehicle in the Court as and when required.

- (II) The applicant shall get the vehicle photographed showing the registration number as well the chassis number. Such photograph shall be taken in the presence of the investigating officer to be kept on the file of the case.
 - (III) The personal bond of the applicant/registered owner and bond of surety shall carry the photographs of the owner and her surety and the bond of surety shall further carry the photographs of persons identifying him before the Court which would be with full residential proofs of the sureties and the persons identifying him.
 - (IV) The applicant/registered owner shall undertake not to transfer the ownership of the vehicle and not to lease it to anyone and not to make or allow any changes in it to be made so as to make identifiable.
- 10.** Consequently, the impugned order is set aside and the revision is allowed accordingly.

Sd/

(Rajani Dubey)
JUDGE