

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1003 of 2018**

Gopal Banjare S/o Dujeram Banjare, aged about 32 years R/o Konpara, P.S. Gharghoda, Tahsil Gharghoda, Distt. Raigarh (C.G.).

----Applicant**Versus**

State of Chhattisgarh Through the Station House Officer, P.S. Kotraroad, Distt. Raigarh (C.G.).

---- Respondent

For Applicant	:	Mr. Suresh Kumar Verma, Advocate
For Respondent	:	Mrs. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel
Order on Board

21/01/2019

1. By way of present Criminal Revision filed under Section 397 read with 401 of Cr.P.C., the Applicant has challenged order dated 22/06/2018 passed by the Special Judge (NDPS), Raigarh in Special NDPS Case No. 03/2018, whereby the application of the Applicant for releasing vehicle bearing registration No. CG 13 UD/9426 on Supurdnama was rejected.
2. As per prosecution case, on 09/02/2018 at about 7:00 pm, an information was received to the effect that one person was carrying prohibited medicines in his motor-cycle bearing registration No. CG 13 UD/9426. On being searched, he was found in possession of 160 numbers of Eskuf Cough Syrup containing 100 ml each, 750 numbers of A.P.S. 0.5 Alprazolm tablets and 144 numbers of Spasomo Prosyvon Plus Capsules. The above prohibited medicines and the motor-cycle were seized and offence under Section 21 of the NDPS Act was registered.

The Applicant, being owner of the said vehicle, made an application for releasing the vehicle on Supurdnama which was rejected by the learned trial Court. Thus, this revision.

3. 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. He further submits that the vehicle was carrying prohibited drugs was not within the knowledge of the Applicant. There is no involvement of the Applicant in the alleged offence. He further submits that the seized vehicle of which the Applicant is registered owner is lying idle in the police station since 09/02/2018 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 and submits that confiscation is subject matter of this case.
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 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. ford car bearing registration No. CG13 UD/0426 be released to the Applicant upon his furnishing a personal bond of Rs.50,000/- 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 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