

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1051 of 2019**

Mohammed Danish, S/o - Shri Jamir Alam, Aged About 39 Years, R/o - House No 4/46-B-1, Ardali Bajar, Thana - Cantt, Civil And Revenue District Waransi (Uttar Pradesh) Through Power of Attorney Holder Aslam Khan S/o - Shri Julfekar Khan, Aged About 52 Years R/o - Rui Mandi Markinganj, Police Station-Kotwali, District Gajipur (Uttar Pradesh) (Adds of Petitioner Wrongly Mentioned In Order)

---- Applicant**Versus**

State of Chhattisgarh, Through District Magistrate, Mahasamund, District : Mahasamund, Chhattisgarh

----Respondent

For Applicant	: Shri Sunil Sahu, Advocate
For Respondent/State	: MS. Reena Singh, Panel Lawyer

Hon'ble Smt. Justice Rajani Dubey**Order On Board****19.09.2019**

1. Heard on admission.
2. This revision is preferred against the order dated 22.08.2019, passed by the learned Special Judge, (N.D.P.S. Act, 1985) Mahasamund (C.G.) in MJC No. H-61/2019, whereby the application filed by the applicant under Section 451/457 of the Cr. P.C. for Supurdnama of the vehicle involved, has been rejected, which was involved in the offence under Section 20(ख) of the NDPS Act.
3. As per the prosecution case, a vehicle bearing registration No. UP-82-T-2628 was seized from the possession of the accused alleged to be in connection with Crime no.122/2019. It is alleged

that the accused have been found in possession of 135 kilograms of contraband Ganja in the said vehicle. The offence was registered under Section 20(ब) of the NDPS Act against the accused and the owner of the vehicle Mohd. Danish. The application filed by the applicant/owner for Supurdnama of the vehicle has been rejected by the trial court vide order dated 22.08.2019. Hence, this revision.

4. Learned counsel for the applicant/owner of the vehicle submits that the order passed by the trial Court is perverse and contrary to law. The applicant is the registered owner of the seized vehicle and there is no possibility that he will destroy the car after receiving it on Supurdnama. The case is pending before the trial court and trial will take some time, therefore, if the seized vehicle is kept in the custody of Police in stationary condition then the part of the vehicle will be spoiled and it will not be usable in the future. He submits that the learned trial court has rejected the application for Supurdnama without considering the law laid down by the Hon'ble Apex Court in the matter of **Sundar Bhai Amba Bhai Vs. State of Gujarat**¹.
5. Learned counsel for the State opposes the arguments.
6. Heard learned counsel for the parties and perused the order of the court below.
7. The trial court has rejected the application of the applicant on the ground that the property is seized under Section 20(ब) of the NDPS Act, which is heinous in nature.

¹AIR 2003 SCC

8. The Honble Apex Court in the matters of **General Insurance Council and others Vs. State of Andhra Pradesh and others**² and **Sunderbhai Ambalal Desai Vs. State of Gujarat**³, has held that if the vehicle is kept in the police station it must be occupying space or is prone to cause natural decay and may lose its road worthiness when kept in stationary position. This court in **CRMP No. 2344 of 2018** has also passed the order dated 8.3.2019 on same line. Therefore, the order of rejection of application for interim custody cannot be allowed to remain. It is clear from the RC book that the engine number and chasis number of the vehicle is same. Consequently, it is directed that the vehicle be released in favour of the applicant by way of interim measure, if the confiscation proceedings have not been concluded till date of production of this order.
9. In the result, order dated 22.08.2019 is quashed and the revision is allowed. The vehicle is directed to be released to the applicant on the following conditions:
- I. Applicant shall execute a bond in sum of Rs.5,00,000/- with one surety of Rs.5,00,000/- to the satisfaction of the concerned court.
 - II. Applicant must satisfy the Court that he is the registered owner of the offending vehicle.
 - III. The applicant 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,

²(2010) 6 SCC 768

³(2002) 10 SCC 283

and engine number of the offending vehicle shall be furnished by the applicant before the trial court with an undertaking that no damage shall be caused or no part of the vehicle be substituted.

- IV. The applicant 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 applicant, 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 applicant.
- V. The applicant shall produce vehicle either before this Court or before Collector or such authorities as it may be directed, on his own expenses.
10. Thus, the revision is allowed.

Sd/-
(Rajani Dubey)
JUDGE