

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(Cr.) No. 902 of 2019

- Rajesh Patel S/o Firanlal Patel, Aged About 36 Years R/o Gram - Bhanwarchuva, Thana Basna, District - Mahasamund Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through, S. H. O. Police Station , Basna, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
2. The District Magistrare (Collector) Mahasamund, District - Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Respondents

For the Petitioner : Shri Sanjay Patel, Advocate.

For the Respondent/State : Shri Ghanshyam Patel, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-09-2019

Heard.

1. This petition has been brought under Article 226 of the Constitution of India praying for issuance of appropriate writ.
2. It is submitted by learned counsel for the petitioner that the petitioner is registered owner of the car bearing registration No. C.G.04 KP 8868. This car was seized from the possession of the petitioner in Crime No.398 of 2018 of police station Basna, District Mahasamund on 1.10.2018 in connection with the transportation of illicit liquor. The petitioner filed an application for grant of interim custody before the Collector and after rejection of the same he filed Revision Petition No.6 of 2019 before the Court of Additional Session Judge, Saraipali, District Mahasamund which has been dismissed vide order dated 17.1.2019 on the ground that the confiscation proceeding has been initiated, therefore, the Court has no jurisdiction. It has been held by this Court in

W.P.(C) No. 476 of 2011 vide order dated 29.3.2011 that in such cases petition under Article 226 of the Constitution of India will lie. The petitioner has an entitlement for grant of interim custody of the vehicle under seizure as he is the registered owner of the same, therefore, it is prayed that this petition be allowed and the interim custody of vehicle in question be granted to the petitioner.

3. On the other hand, learned counsel for the State opposes the petition and the submissions made in this respect. It is further submitted that the confiscation proceeding is going on and that is likely to be concluded soon, therefore, no purpose would be served if any order of interim custody is granted by this Court. Hence, for these reasons, the petition be dismissed.
4. I have heard learned counsel for both the parties and perused the documents on record.
5. It is not denied that the petitioner is the registered owner of the vehicle which has been seized in this case and the confiscation proceeding is going on regarding the same. The Collector has authority to pass an order under sub-section (2) of Section 47A of the Chhattisgarh Excise Act granting interim custody of the property under seizure, however, respondent No.2 – The District Magistrate (Collector), Mahasamund, District Mahasamund has not exercised that jurisdiction.
6. Considering the fact that the vehicle is lying stationary and the value of the same is getting depreciated day by day; time of about one year has passed since the seizure of the vehicle and the confiscation proceedings have not concluded so far, therefore, pending this confiscation proceeding, I feel inclined to allow this petition at the motion stage.

7. Accordingly, respondent No.2 – District Magistrate (Collector) Mahasamund is directed to make an assessment of seized vehicle and pass an order accordingly for furnishing bonds and Supurdnama. On furnishing such bonds and Supurdnama, the vehicle in question be released in favour of the petitioner with a condition that the petitioner shall not transfer or change description/ features of the vehicle in question and he shall produce the said vehicle before respondent No.2 – District Magistrate (Collector) Mahasamund when any such order is passed during the course of confiscation proceeding.
8. Accordingly, the petition is disposed of.

Sd/-

(Rajendra Chandra Singh Samant)
Judge