

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 923 of 2019

- Miniketan, S/o Mohanlal Kashyap, Aged About 40 Years, R/o Village-Rajpalpur, Chowcky Bhanwarpur, Thana-Basna, District-Mahasamund Chhattisgarh.

---- Petitioner

Versus

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

---- Respondents

For petitioner	:	Mr. Sanjay Agrawal, Advocate.
For Respondent/State	:	Mr. Neeraj Pradhan, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on board

19/09/2019

1. Petition under Article 226/227 of Constitution of India has been brought praying for grant of interim custody of seized vehicle to the petitioner.
2. It is submitted that vehicle of the petitioner bearing registration No.CG-06-GK/5933 has been seized by respondent No.1 in connection with under Section 34(2) of the Chhattisgarh Excise Act for transportation of illicit liquor. Confiscation proceeding has been initiated by respondent No.2. The petitioner filed an application for grant of interim custody of the said vehicle and the same has been rejected vide order dated 20.12.2018, hence, this petition. It is submitted that petitioner is the registered owner of aforementioned vehicle and alleged transportation of illicit liquor was not within the knowledge or connivance with the petitioner. The vehicle was in possession of the driver when it was

seized. Though there is no such restriction that during pendency of confiscation proceeding, the vehicle will not be given on interim custody, even then respondent No.2 has rejected application of the petitioner for grant of interim custody of vehicle. The petitioner is entitled for interim possession of vehicle during pendency of confiscation proceeding. Hence, it is prayed that petition be allowed and interim custody of vehicle in question be granted to the petitioner.

3. Learned State counsel opposes the petition and submissions made in this respect. It is submitted that since confiscation proceeding has been initiated, the petitioner has no entitlement to pray for custody of the said vehicle.
4. I have heard learned counsel for both the parties and perused the documents on record.
5. In view of the observation made by a co-ordinate Bench of this Court in the matter of ***Ranjeet Kumar Gupta vs State of Chhattisgarh & another in ILR 2017 Chhattisgarh 1384*** that in such type of cases the only remedy is the petition under Article 226/227 Constitution of India, the present petition is maintainable. It is not denied that the petitioner is the registered owner of seized vehicle and seizure of illicit liquor has not been made from his possession. It is yet to be proved that the said transportation of illicit liquor was well within the knowledge of petitioner or the petitioner was in connivance with accused in transporting illicit liquor. In these circumstances, the petitioner, who is registered owner of vehicle, is entitled to get interim custody of vehicle in question subject to certain conditions and also final outcome of the confiscation proceedings against the petitioner under Section 47A of the Chhattisgarh Excise Act,

6. On the basis of above discussions, I feel inclined to allow this petition at the motion stage itself. Accordingly, the respondent No.2 is directed to make an assessment of seized vehicle and pass 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 the condition that petitioner shall not transfer or change description/features of vehicle in question and he shall produce the said vehicle before the respondent No.2 when any such order is passed during the course of confiscation proceeding.
7. The petition is accordingly disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha