

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 1189 of 2018

Meghnath, aged about 32 years S/o Tulsi Ram, Caste Kahara, R/o Village Bhatapara, Janjgir, District Janjgir Champa (C.G.).

----Applicant

Versus

1. State of Chhattisgarh, Through the Station House Officer, Police Station Janjgir, District Janjgir-Champa (C.G.).
2. Milan Yadav S/o Banthu Yadav, aged about 25 years R/o Shanti Nagar, Janjgir, P.S. Janjgir, District Janjgir-Champa (C.G.)

---- Respondents

For Applicant	:	Mr. Vivek Singhal, Advocate
For Respondent No.1	:	Mr. K.K. Dewangan, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

14/01/2019

1. This revision has been preferred against order dated 23/07/2018 passed in MJC No. 07/2018 by the Special Judge (NDPS), Janjgir, District Janjgir- Champa, whereby the application for releasing vehicle bearing registration No. CG11 BA 9370 was rejected.
2. Facts of the case are that the Applicant is register owner of the said vehicle. A charge-sheet under Section 20 (B) (ii) (b) of the NDPS Act was submitted by the prosecution against Non-applicant No.2. It was alleged that on 16/03/2017, he was found in possession of illicit contraband (Ganja), which was kept in the seized vehicle. After trial, vide judgment dated 14/12/2017, the Special Judge (NDPS) in NDPS Case No. 09/2017 has acquitted Non-Applciant No.2 Milan Yadav from the charges leveled against him. Since at the time of disposal of the said case, no document regarding ownership of the vehicle was submitted, therefore, it was ordered that the seized vehicle shall be released after receiving

ownership paper of the vehicle and after conducting an inquiry regarding same. The Applicant moved an application before the learned Special Court for taking the said vehicle on Supurdnama with the contention that he is registered owner of the said vehicle. The learned Special Court vide impugned order dated 23/07/2018 rejected the application on the ground that since the prosecution has moved proposal for appeal, therefore, on this ground this application is rejected. Thus, this revision.

3. Learned counsel appearing on behalf of the Applicant submits that the Applicant is registered owner of the said vehicle. He had submitted relevant document regarding ownership of the said vehicle before the learned Special Judge, inspite of that only on the ground that the prosecution had moved a proposal for appeal, the application was rejected which is perverse and is not in accordance with law. He further submits that Non-Applicant No. 2 has already been acquitted from the charges and the Applicant is registered owner of the vehicle which is lying in police station since 16/03/2017, but the learned Special Judge has not considered this. He further submits that though an appeal has been filed, but the same will take much time, therefore, he prays that the seized vehicle of which the Applicant is registered owner which is lying idle in the police station may be released to him on Supurdnama as no fruitful purpose would be served if the vehicle remains idle in the custody of the police personnels exposed to the extreme weather conditions and the same 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.
4. Learned counsel appearing on behalf of the State opposes the claim of the Applicant.

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 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. Motor Cycle bearing Registration No. CG11 BA 9370 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 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.
9. With the aforesaid observations, the Criminal Revision is allowed.

Sd/-
(Arvind Singh Chandel)
Judge