

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1386 of 2018**

Balram Tiwari S/o Late Ramnarayan Tiwari, Aged about 42 years, R/o Village Parwatipur, P.S. Lundra District Surguja (C.G.)

----Applicant**Versus**

State of Chhattisgarh Through S.H.O., P.S.- Lundra District Surguja (C.G.)

---- Respondent

For Applicant	:	Mr. Nishikant Sinha, Advocate
For Respondent	:	Mr. K.K. Dewangan, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****03/05/2019**

1. By way of the present Criminal Revision filed under Section 397 read with 401 of Cr.P.C., the applicant has challenged the order dated 29/11/2018 passed by Special Judge (NDPS), Ambikapur in Special Criminal Case No. 13/2018, whereby, the application of the applicant for releasing the vehicle on Supurdnama was rejected.
2. As per prosecution story, on 02/08/2018 on the basis of secret information received from the informant, the police party intercepted the Applicant and on search he was found in possession of 3 kg of Ganja which he was illegally transporting in motorcycle Hero Honda Passion Pro bearing registration No. CG 15 CG 8881. The Ganja and the vehicle were seized and offence was registered. The Applicant is the owner of the said vehicle. He made an application for releasing the said 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 the registered owner of the vehicle which was alleged to be involved in commission of crime. He further submits that the seized vehicle of which the Applicant is registered owner is lying idle 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.
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 the confiscation proceeding has not been started, 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. Hero Honda Passion Pro bearing registration No. CG 15 CG 8881 be released

to the applicant upon his furnishing a personal bond of Rs. 30,000/- 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 the 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