

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 457 of 2020

Mishrilal Patel, S/o. Shri Chaturgun Patel, aged about 55 years, by Cast Kumbi, R/o. Village Dhumbadand, P.S. Chandora Tahsil and District Surajpur Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh, Through : District Magistrate, Ambikapur, District Surguja Chhattisgarh.

---- Respondent

For Applicant : Mr. Sanjay Pathak, Advocate

For State/Respondent : Mr. Devendra Pratap Singh, Dy.G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

22/06/2020

1. Challenge in this petition is to the order dated 06.03.2020, passed by Special Judge, N.D.P.S. Act, Ambikapur, District – Surguja (C.G.), whereby the application preferred by the applicant for custody of the vehicle bearing No. C.G.-29A-4739, which was seized in connection with Crime No.78/2020, U/s. 20(B) of N.D.P.S. Act, has been rejected.
2. It is submitted that the applicant is the registered owner of the vehicle bearing No.C.G.-29A-4739. The said vehicle was used by the accused, who happens to be the son of the applicant without the knowledge and connivance of the applicant. There is no allegation

against this applicant regarding the said transportation of Ganja. No confiscation proceeding has been initiated so far, therefore, it is prayed that the revision be allowed and the applicant should be granted interim custody of the vehicle under seizure in this case.

3. State counsel opposes the petition and the submission made in this respect. It is submitted that it is a case of transportation of commercial quantity of Ganja and there is direct connection of the applicant with the accused, as he is his father. Therefore, looking to the liability of such vehicle to be confiscated, the applicant has no entitlement for interim custody of the same.
4. I have heard the learned counsel for the parties.
5. The vehicle above mentioned has been seized in connection with case under Section 20(B) of N.D.P.S. Act registered as Crime No.78 of 2020 in Police Station – Gandhi Nagar, Ambikapur from the accused Sanjay Patel. There is no allegation against this applicant as being participant in the said commission of offence. The applicant happens to be registered owner of the said vehicle. There is no such report that any confiscation proceeding has been started with respect to the vehicle under seizure, therefore, interim custody of the said vehicle can be given to the applicant on appropriate direction and condition.
6. Accordingly, the revision petition is allowed. The impugned order dated 06.03.2020 passed by the Special Judge, N.D.P.S. Act, Ambikapur, District – Surguja (C.G.) is set-aside and it is directed that the vehicle bearing No. C.G.-29A-4739 be released in favour of the applicant by way of interim measure till the disposal of the trial.

The learned trial Court 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 applicant with a condition that the applicant shall not transfer or change description/features of the vehicle in question and he shall produce the said vehicle before the trial Court or confiscation authority when any such order is passed during the course of trial or confiscation proceeding.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram