

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.798 of 2019

Dilip, S/o Shri Rana Pratap, Aged about 25 years, R/o Village Anjaani, Thana Bijpur, District Sonbhadra (U.P.)

(Applicant)
---- Petitioner

Versus

State of Chhattisgarh, through District Magistrate, Balrampur, District Balrampur-Ramanujganj (C.G.)

(Non-applicant)
---- Respondent

For Petitioner: Mr. Surfaraj Khan, Advocate.
For Respondent / State: Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/06/2020

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner's vehicle was seized in excise offence for which he made an application for grant of interim custody which has been rejected on the ground that bar under Section 47-D of the Chhattisgarh Excise Act, 1915 (for short, 'the Excise Act') is attracted and confiscation proceeding has been initiated and the Magistrate has informed to the trial Magistrate which has been affirmed by the revisional Court against which this petition under Section 482 of the CrPC has been preferred.
3. I have heard learned counsel for the parties and went through the record with utmost circumspection.
4. A careful perusal of the order impugned passed by the trial Court would

show that initiation proceeding has not been intimated by the Collector to the trial Magistrate under Section 47-A(3)(a) of the Excise Act, however, the trial Magistrate has rejected the application on the ground that the concerned police station has already informed to the Collector for confiscation proceeding which satisfies the requirement of Section 47-A(3)(a) of the Excise Act which has been duly considered by this Court in the matter of Anil Kumar Narmada v. State of C.G.¹. In view of that, the impugned order is set aside and the matter is remitted to the trial Magistrate who shall consider and pass order afresh by recording finding as to whether initiation of proceeding has been intimated by the Collector to his Court with regard to the seized vehicle or not, after hearing the interested parties, within 45 days from today, in accordance with law.

5. With the aforesaid observation, the petition stands finally disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma