

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 599 of 2020

Sonu Kushwaha, S/o. Kumar Chand Kushwaha, aged about 27 years, R/o. Kedarpur, P.S. Kotwali, District Surguja Chhattisgarh.

----Applicant

Versus

State of Chhattisgarh, Through : The Station House Officer, Police Station Pasta, District Balrampur Ramanujganj Chhattisgarh.

---- Respondent

For Applicant : Mr. Jitendra Shrivastava, Advocate

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

06/10/2020

1. Challenge in this petition is to the order dated 23.07.2020, passed by Special Judge, (F.T.C./POCSO), Ramanujganj, District Balrampur, Ramanujganj (C.G.), passed in M.J.C.(Cri.) Case No.11/2020, dismissing the application filed by the applicant under Section 457 of Cr.P.C. praying for grant of interim custody of the vehicle under seizure.
2. It is submitted by the learned counsel for the applicant that the applicant is the registered owner of the vehicle bearing registration No.UP-64-T-7198. This vehicle was entrusted with the driver Mohd. Asgar Khan, who is the accused in Crime No.18/2020, registered at Police Station – Pasta, District – Balrampur – Ramanujganj. It was during that period of entrustment, the driver has committed the offence of abduction and rape of the prosecutrix along with two

other co-accused persons, because of which, the vehicle was seized by the police from the driver of this applicant. This applicant is neither accused in that case nor he has connection with the said commission of crime, therefore, on the basis of being the registered owner of the vehicle, he had entitlement for custody of the vehicle during the pendency of the trial. It is submitted that the learned Court below has without appreciating the fact of entitlement being in favour of the applicant has mechanically dismissed the application filed under Section 457 of Cr.P.C., which is an erroneous order, therefore, interference is prayed for by this revision petition.

3. State counsel opposes the petition and the submission made in this respect. It is submitted that vehicle has been used in the commission of crime of abduction in which the prosecutrix was carried to different places, where she was ravished by the accused persons. Further the vehicle and all the documents have been seized from the accused Mohd. Asgar Khan, therefore, the vehicle being the article of evidence may be required at the stage of recording of evidence, hence, it should not be given on interim custody to the applicant. The learned Court below has not committed any error in passing the impugned order. Therefore, it is prayed that revision petition be dismissed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Considered on the submissions. There is no denial that the applicant is the registered owner of the vehicle under seizure and that he is not an accused in the case, which is registered as Crime

No. 18/2020 against Mohd. Asgar Khan and others. The requirement of the vehicle, if any, for the evidence, if arises in that case, the same can be produced by the person having custody of the same, before the Court, if any, such order is passed by the Court. Therefore, this Court is of the view that the interim custody of the vehicle, can be given to the applicant on appropriate direction and condition.

6. Accordingly, the revision petition is allowed. The impugned order dated 23.07.2020, passed by Special Judge, (FTC/POCSO), Balrampur, Ramanujganj, District Balrampur, Ramanujganj (C.G.), passed in M.J.C. (Cr.) Case No.11/2020, is set-aside and it is directed that the vehicle bearing No. UP.-64-T-7198 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