

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.R. No.633 of 2020**

- Harpreet Singh @ Babbu, S/o Basant Singh, Aged About 32 Years R/o C.H. 164, Dhandha Bhawan, Veer Sawarkar Nagar, Heerapur, Police Station Kabeer Nagar, Raipur, Chhattisgarh

---- Applicant***Versus***

- State Of Chhattisgarh Through The Police Station Kabeer Nagar, Raipur Chhattisgarh

---- Non-applicant

For Applicant : Shri Raza Ali, Advocate.

For State/Non-applicant : Shri Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

09/12/2020

1. This revision is directed against the order dated 04.08.2020 passed by the Special Court (under the NDPS Act) Raipur, District- Raipur, C.G., dismissing the application under Section 457 of the Cr.P.C. praying for interim custody of the vehicle under seizure.
2. It is submitted by learned counsel for the applicant that the applicant is registered owner of the vehicle i.e. motor cycle bearing registration No. CG 04 M Z 1086. The applicant has been falsely implicated in the case under N.D.P.S. Act and seizure of the vehicle that has been made under Crime No.25/2020 of Police Station, Kabirnagar, Raipur, C.G. The applicant intends to contest the case and is hopeful to get acquittal. The ground mentioned in the

impugned order that the vehicle is liable to be confiscated is not maintainable, as the proceeding of confiscation can be initiated only after the completion of trial. Therefore, the applicant had entitlement and it is prayed that he may be granted interim custody of the vehicle.

3. Learned counsel for the State/Non-applicant opposes and submits that the applicant is himself the accused in this case and the seizure of the contraband was made from the motor cycle which was in his possession. The S.S.P. Raipur has made correspondence with the District Magistrate, Raipur to initiate the proceeding of confiscation of the said vehicle. Therefore, the vehicle being an article liable to be confiscated cannot be granted on interim custody to the applicant. Therefore, no error has been committed by the Court below. Hence, the revision petition be dismissed.
4. Heard learned counsel for both the parties and perused the documents.
5. Considered on the submissions and the facts of the case, it is true that the applicant is the accused and the seizure in this case has been made from the vehicle which was in his possession. Any article seized in connection with the crime committed under N.D.P.S. Act is liable to be confiscated under Section 60, 61 and 62 of the N.D.P.S. Act. However, the proceeding in such confiscation can be started only after the passing of final judgment in the criminal case against the accused on the orders of such trial Court, which may be passed under Section 63 of N.D.P.S. Act. Therefore, at present, there is no proceeding of confiscation can be initiated,

hence, the submission made on this point that the learned State counsel is not based on any legal provision. As the case against the applicant is at present before the trial Court and trial is yet to be initiated, hence, under these circumstances, I am of this view that the applicant can be granted interim custody of the vehicle seized in this case, therefore, the revision petition is allowed. The impugned order is set aside and it is ordered that on furnishing of bonds according to the valuation assessed by the trial Court the vehicle shall be released on interim custody in favour of the applicant.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika