

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No. 613 of 2020

- Mohd. Yunus Alam S/o Mohd. Rozid Aged About 52 Years R/o Mominpura Ward No.40, Police Station Kotwali, Ambikapur, District Surguja, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Rajpur, District Balrampur-Ramanujganj, Chhattisgarh

--- Non-applicant

For Applicant	– Ms. Sangeeta Soni, Advocate.
For State/Non-applicant	– Mr. Ghansyam Patel, Govt. Advocate.

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

09-12-2020

Heard.

1. This revision is directed against the order dated 04.07.2020 passed by the Special Judge, N.D.P.S. Act, Balrampur, Place- Ramanujganj, C.G., dismissing the application filed by the applicant under Section 457 of the Cr.P.C. praying for interim custody of the property under seizure in the case concerned.
2. It is submitted by learned counsel for the applicant that the applicant is registered owner of the auto Rikshaw bearing registration No. CG-15-DA-9195, which has been seized by the police in Crime No.24/2020, in connection with commission of offence under Section 21(C) of N.D.P.S. Act. The applicant is not an accused in that case and also if the prosecution is to be believed, the applicant had no

knowledge of the said transportation and neither such transportation was done in his connivance, therefore, he is entitled for the interim custody of the seized vehicle. The impugned order has been passed erroneously, therefore, interference is prayed for by this revision petition.

3. Learned counsel for the State/Non-applicant opposes and submits that the applicant is the father of the accused Irshaad Alam from whose possession the narcotic substance was seized while the same was being transported in auto rikshaw, therefore, the applicant cannot claim that he did not have knowledge and the transportation was not done in his connivance. Apart from that the seized auto rikshaw is liable to be confiscated. Therefore, the learned Special Court has not committed any error. Hence, this revision petition may be dismissed.
4. Heard learned counsel for both the parties and perused the documents.
5. Considered on the submissions and the facts of the present case and also the seizure of the auto rikshaw made in the criminal case mentioned hereinabove, it is clear that the applicant is the registered owner of the said vehicle, further, he is not an accused in this case. The procedure for confiscation of seized article under N.D.P.S. Act can be initiated under Section 63 of the N.D.P.S. Act only at the stage of conclusion of trial and not before that. Therefore, under these circumstances, I am of this view that the applicant had entitlement for interim custody of the vehicle under seizure, hence, I find that the learned Special Court has committed error, hence, this revision petition is allowed. As it is informed that the said vehicle is hypothetic

to the finance company, therefore, specific condition shall be clear that the applicant shall not transfer the said vehicle during the pendency of the case. 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