

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 665 of 2020

Jitendra Kumar Yadav S/o Shri Mayaram Yadav Aged About 27 Years
R/o Jaitpuri, Police Station Nandghat, District Bemetara Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate Bemetara, District
Bemetara Chhattisgarh.

---- Respondent

For Applicant	: Mr. R.B. Singh, Advocate.
For the Respondent/ State	: Mr. G.S. Patel, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-11-2020

1. This revision petition has been brought being aggrieved by the order dated 8.9.2020 passed in Criminal Case No. 329 of 2020, by which the prayer made by the applicant for release of the vehicle seized on interim custody was dismissed by the Special Court under NDPS Act, Bemetara, District Bemetara.
2. It is submitted by counsel for the applicant that the applicant is the registered owner of the two-wheeler - Hero HF Delux bearing registration No. C.G. 25/G/1131, which has been seized in Crime No. 216 of 2020, with respect to commission of offence under NDPS Act from the possession of the accused persons. The applicant is not involved in the said commission of crime and he can establish that the act that has been committed, was not within his knowledge of connivance, therefore, he had entitlement for the relief of interim custody which has been erroneously denied by the trial Court. Hence, it is prayed that this revision petition be allowed.

3. Learned counsel for the State opposes the submissions made and the grounds raised in the revision petition. It is submitted that the seized vehicle was used for transportation of cough syrups having content of narcotic substance prohibited under NDPS Act and one confiscation proceedings has been initiated before the Collector of the District. Hence, no error has been committed by learned Court below and the revision petition be dismissed.
4. Heard counsel for both the parties and perused the documents.
5. Considered the submissions and also the facts of the case. The applicant himself is not an accused in the case registered as Crime No.216 of 2020, he is only the registered owner of the said vehicle which has been one reason for his entitlement.
6. Sections 60, 61 and 62 of the NDPS Act provides regarding the liability of confiscation of the substances which may be seized in the case for commission of offence under NDPS Act. Section 63 of the NDPS Act provides for the procedure in making confiscations. According to which, at the conclusion of trial, the result may be either acquittal or conviction or discharge, the Court shall decide whether any article or thing seized under this Act is liable to be confiscated or not. Subsequent to this decision, any confiscation proceeding may be initiated. There is no provision for initiation of confiscation proceeding before Collector. As it is clear that the trial in this case is still pending at this stage and the applicant has no connection with the commission of offence, hence, the order passed by the Court below needs interference.
7. Accordingly, this revision petition is allowed. The impugned order dated 8.9.2020, passed by the Special Court under NDPS Act, Bemetara, District Bemetara in Criminal Case No. 329 of 2020, is set aside and it is directed that the two-wheeler - Hero HF Delux bearing registration

No.C.G. 25/G/1131 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