

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.2009 of 2018

Mahfooj Kha, S/o Mahboob Khan, aged about 30 years, R/o Village Venkat Nagar, Police Station Venkat Nagar, Tehsil Jaitahri, District Annuppur, Madhya Pradesh

---- Petitioner

Versus

State of Chhattisgarh, through District Magistrate, Korba (Police Chowki Rampur), Police Station Kotwali, District Korba (C.G.)

---- Respondent

For Petitioner: Mr. Ashok Soni, Advocate.

For Respondent / State: Ms. Veena Nair, Deputy Advocate General.

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 application for interim custody of the vehicle belonging to the petitioner seized for the commission of excise offence has been rejected by the trial Magistrate as well as by the revisional Court on the ground that bar under Section 47-D of the Chhattisgarh Excise Act, 1915 (for short, 'the Excise Act') is attracted, as intimation about the initiation of confiscation proceeding has not been given which is sought to be challenged in this petition under Section 482 of the CrPC.
3. I have heard learned counsel for the parties and went through the record with utmost circumspection.
4. After hearing learned counsel for the parties, I am of the considered opinion that since intimation about initiation of confiscation proceeding by

the District Magistrate has already been given to the trial Magistrate, therefore, Section 47-D of the Excise Act will come into play. However, the petitioner is at liberty move application for grant of interim custody of the vehicle, if not already applied, before the trial Magistrate which shall be considered within 45 days from today, in accordance with law. It is made clear that if the said application has already been rejected, the petitioner is at liberty to challenge that order in accordance with law.

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

Sd/-
(Sanjay K. Agrawal)
Judge