

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.1475 of 2019

- Narendra Gemnani S/o. Ramdas Gemnani Aged About 33 Years R/o Anand Children Hospital, Main Road, Torwa, District Bilaspur Chhattisgarh

---- Petitioners

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station-Civil Line, District- Bilaspur Chhattisgarh

---- Respondent

For Petitioner	:	Ms. Rashmeet Johal, Advocate.
For Respondent	:	Mr. Arijit Tiwari, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-02-2020

Heard.

1. This Criminal Revision has been brought challenging the legality and correctness of the order dated 24.10.2019 passed by the Special Judge, (N.D.P.S. Act), Bilaspur, C.G., in Miscellaneous Case No.43/2019 by rejecting the application for grant of interim custody of the vehicle seized in this case to the petitioner.
2. Learned counsel for the petitioner submits that applicant is the registered owner of the vehicle i.e. scooter bearing Registration No.CG 10 AL 6906 and he is also the owner of the mobile phone seized in this case which has a bar code No.353778084443005. His application for grant of interim custody of these articles in his possession have been arbitrarily rejected by the learned trial Court by giving the reason that the offence committed is of serious nature. The entitlement of the applicant

has not at all been examined, therefore, it is prayed that his revision may be allowed and relief be granted to the applicant.

3. Learned State counsel opposes the submissions and submits that under Section 60 of N.D.P.S. Act, all the articles that have been seized along with the narcotic substance are liable for confiscation, therefore, only for this reason, there is no entitlement on the part of the applicant for grant of the relief he is praying for. Therefore, this revision petition may be dismissed.
4. Heard learned counsel for both the parties and also perused the documents present.
5. The seizure of the above mentioned articles has been made by the Police Station Civil Lines, Bilaspur, C.G. in the Crime No.509/2019 for commission of offences under Section 21 and 22 of N.D.P.S. Act, 1985. Charge-sheet has been filed after completion of investigation.
6. Section 63 of the N.D.P.S. Act, 1985 provides that, it is after completion of trial in which the accused may be convicted or acquitted or discharged, then the Court shall decide whether any article or thing seized under this Act is liable for confiscation under Section 60, 61 and 62 or not and then the confiscation proceeding shall be initiated. At this stage, the trial against the applicant is pending before the Court, therefore, the stage of taking decision under Section 63 of the Act, 2015 has not yet arrived. Further, for the reason that it is trial Court which shall consider on the liability of the confiscation of the article seized and then the trial Court is in a position to call for the production of things, if they are granted on interim custody to the person concerned. Hence, for these reasons, I am of this view that for the present seized articles,

which are lying in the Police Station are losing value day by day because of the depreciation in value and also being machinery items need maintenance for their upkeep time to time. Therefore, the grant of interim custody of these articles should have been a proper order passed by the Court below. On the basis of these findings and the observations made hereinabove, the petition is allowed and the impugned order is set aside. The learned trial Court is directed to make a valuation of the seized articles and direct the applicant to produce security bonds etc. to the satisfaction of that Court and then the seized articles be given for the interim custody of the applicant till the disposal of the criminal case of the trial Court and also subject to the further orders which may be passed by the trial Court.

7. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge