

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.2620 of 2019**

Keerti Kumar S/o Itwari, aged about 35 years, Caste-Kumhar, R/o Jatga, P.S. - Katghora, Distt. Korba (CG)

---Petitioner**Versus**

State of Chhattisgarh Through Station House Officer,
Out Post - Jatga, P.S. Katghora, Distt. Korba (CG)

---Respondent

For Petitioner	:	Mr.Vivek Tripathi, Advocate
For Respondent	:	Mr.Animesh Tiwari, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

23/06/2020

1. Proceedings of this matter have been taken up through video conferencing.
2. The petitioner's vehicle was found involved in commission of excise offence and has been seized by the police, for which the petitioner applied for grant of interim custody. That has been rejected by the trial Court as well as the revisional Court, against which, this CrMP has been filed.
3. Mr.Vivek Tripathi, learned counsel for the petitioner, would submit that the trial Court as well as the revisional Court are absolutely

unjustified in rejecting the application of the petitioner for interim custody of the vehicle.

4. On the other hand, Mr. Animesh Tiwari, learned Deputy Advocate General for the respondent/State, would support the impugned order.

5. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

6. In order to attract the bar contained in Section 47-D of the Chhattisgarh Excise Act, 1915 (hereinafter called as 'the Act of 1915'), it is necessary that the Collector must have informed the initiation of confiscation proceeding to the concerned Criminal Court under clause (a) of sub-section (3) of Section 47-A of the Excise Act that confiscation proceeding has already been initiated.

7. It appears from the affidavit filed and the documents available on record that no such intimation has been given by the Collector to the concerned criminal Court about initiation of confiscation proceeding.

8. In view of above, the impugned order dated

22.11.2019 (Annexure P/1) passed by the First Additional Sessions Judge in Criminal Revision No.54/2019 and the order dated 13.11.2019 passed by the Judicial Magistrate First Class, Katghora are hereby set aside. The matter is remitted to the concerned trial Court to consider afresh as to whether the initiation of confiscation proceeding in terms of Section 47-D of the Act of 1915 has been informed to the Court and to pass afresh order on its own merit in accordance with law within a period of two months from the date of receipt of copy of this order.

9. The CrMP is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-