

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1585 of 2019

Smt. Aradhna Nishad W/o Shri Khomkaran Nishad Aged About 37 Years
At Present R/o Devarikhurd, Police Station Torwa, District Bilaspur
(C.G.), Permanent R/o Chandani Chowk, Bhatbhera, District -
Balodabazar - Bhatapara Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station
Civil Line, Bilaspur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rajeev Kumar Dubey, Advocate
For Respondent	: Mr. Adil Minhaj, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-03-2020

Heard.

1. This revision petition has been brought being aggrieved by the order dated 5.11.2019 passed by the learned Special Judge (NDPS Act), Bilaspur, dismissing the order for grant of interim custody of the vehicle.
2. It is submitted by counsel for the applicant that the applicant is a registered owner of the scooter bearing registration No. C.G.22 H-8161. The brother of this applicant, without her consent, made use of the vehicle and seizure of narcotic substance has been made from her brother alleging that he was transporting the same in the said vehicle. The applicant is unconnected with the said commission of offence and therefore, she had entitlement for interim custody of the vehicle which has been erroneously denied by the learned trial Court. Hence, this revision.

3. Learned State counsel opposes the submissions made and the grounds raised in the revision petition. It is submitted that the claim of the applicant regarding her being registered owner of the vehicle needs verification and secondly according to the statement made in the petition, the petitioner has been letting out the vehicle on hire, whereas, the vehicle is registered as private vehicle. Therefore, the applicant has no entitlement and the revision petition be dismissed.
4. Heard counsel for both the parties and perused the documents.
5. The above-mentioned vehicle has been seized by police station Civil Lines in Crime No. 701 of 2019 for the commission of offences under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). The seizure of contraband has been made from accused - Avinash Nishad which was found in the dicky of the said vehicle.
6. The present scenario is that the applicant is not an accused and is not prosecuted for the commission of offence under NDPS Act. Secondly, she appears to be the registered owner of the said vehicle. In case, the Learned trial Court comes to this conclusion that the vehicle is to be confiscated, that conclusion can be drawn only at the stage of final judgment and at present, the case is pending for trial. Therefore, for the present, I am of this view that the applicant has entitlement for grant of interim custody on conditions that may be imposed for production of the same as and when required by the trial Court.
7. In view of above, this revision petition is allowed at the motion stage. It is ordered that the interim custody of the vehicle in question be given to the applicant on her furnishing a personal bond equivalent to the market value of the vehicle in question, to be assessed by the trial Court, the

trial Court may impose such other conditions as may be found necessary in the facts and circumstances of the case.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi