

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 33 of 2020

Dharmendra Pandey, S/o. Shri Sudarshan Prasad Pandey, Aged About 35 Years, R/o. Village Dhourhara, Police Station Manganwa, District - Rewa (M.P.).

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station - Sarangarh, District Raigarh Chhattisgarh.

-----Respondent

For Petitioner : Mr. Goutam Khetrapal, Advocate with
Mr. Jitendra Shukla, Advocate

For Respondent/State : Mr. Shrikant Kaushik, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

04/03/2020

1. This petition has been brought being aggrieved by the order dated 28.11.2019, passed by the learned Special Judge under N.D.P.S. Act, Raigarh (C.G.) in Special Criminal Case under the N.D.P.S. Act No.4/2019, dismissing the application filed by the applicant under Section 457 of Cr.P.C.
2. It is submitted that the applicant is registered owner of the vehicle bearing registration No. M.P.-17-TA-2494. His vehicle was stolen, regarding which, he has lodged FIR. In the meanwhile, the same vehicle was seized by the Police Station – Sarangarh on which the registration number was displayed as C.G.-12R-1294. Seizure was made with respect to the transportation of the Ganja and commission of offence under Section 20-B of N.D.P.S. Act. In

this case, the vehicle was seized in an abandoned condition. The applicant was arrayed as an accused in this case only for the reason that he is the registered owner. As the vehicle is lying idle in the police station and losing its value day by day because of non-maintenance and non-use, therefore, it was prayed that direction be issued for release of the vehicle on interim custody, which has been denied arbitrarily and erroneously by the Court below.

3. State counsel opposes the petition and the submission made in this respect. It is submitted that the vehicle in question has been involved in the transportation of contraband. Secondly, the applicant is resident of other State and thirdly, if the vehicle is given on interim custody, it may not be produced in trial because of which the trial may be withheld. Hence, the petition be rejected.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. The record of the trial Court is present before this Court and on perusal of the same it is found that the vehicle was seized in abandoned condition containing a load of contraband. The police has made verification and found that the applicant is registered owner of the vehicle. Although the vehicle is liable for confiscation under Section 60 of the N.D.P.S. Act, but the decision for its confiscation shall be taken by the Court itself at the conclusion of trial only and not before that and it appears that there is likelihood of some delay in conclusion of trial, therefore, I

am of this view, that it is a fit case where the applicant should have been granted the interim custody of the said vehicle.

6. Accordingly, the petition is allowed. The impugned order is set-aside and it is ordered that on furnishing of bonds according to the valuation assessed by the trial Court, the vehicle shall be released on interim custody in favour of the applicant on terms which the Court may think fit and on condition that if subsequent to that, the vehicle is again found transporting the contraband the same shall not be released on interim custody.
7. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram