HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Revision Petition No. 816/2020

Labh Chand S/o Shri Devi Lal Prajapat, Aged About 35 Years, R/o Srinagar, Police Station Begun, District Chittorgarh.

----Petitioner

Versus

State Of Rajasthan, Through P.p.

----Respondent

For Petitioner(s)	:	Mr. Himanshu Maheshwari, Adv. through VC
For Respondent(s)	:	Ms. Anita Gehlot, PP

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Judgment / Order

11/12/2020

Petitioner has filed this criminal revision petition under Section 397/401 Cr.P.C. to assail the impugned judgment dated 23.10.2020 passed by Learned Special Judge, NDPS Act Cases No.1, Chittorgarh (for short, 'learned trial Court') whereby the learned trial Court rejected the application under Section 457 Cr.P.C., moved by the petitioner for releasing the vehicle Hero Honda Splender Plus bearing No.RJ-09-FS-1731 on 'supurdgi'.

I have heard learned counsel for the petitioner and learned counsel for the respondent-State.

Learned counsel for the petitioner, in support of his arguments, has placed reliance on a decision of the co-ordinate Bench of this Court rendered at Jaipur Bench in Prakash Chand Vs. State of Rajasthan reported in 2010(1) Cr.L.R.(Raj.) 507. In the aforesaid judgment, the vehicle and other articles were seized from the accused for carrying contraband of small quantity just

above the commercial quantity. It is in that background, the Court has acceded to the prayer of the incumbent and recorded its finding that solely for the reason that the vehicle and other articles are likely to be confiscated after trial, conditional release of the vehicle and other articles on Supurdginama and surety cannot be denied and interim custody of the vehicle and other articles can be granted to the incumbent on certain conditions.

Hon'ble Apex Court in the case of Sunderbhai Ambalal Desai Vs. State of Gujarat reported in 2002 (10) SCC 283 and co-ordinate Bench of this Court at Jaipur Bench in case of Prakash Chand (supra) has held that conditional release of the vehicle cannot be denied.

Accordingly, the instant revision petition is allowed and the order dated 23.10.2020 is hereby quashed and set aside and the vehicle Hero Honda Splender Plus bearing No. RJ-09-FS-1731 in question is ordered to be released on 'supardgi' till the completion of the trial upon following conditions:-

(a) the petitioner furnishes a personal bond in the sum of Rs.1,00,000/- each with two sureties of Rs.50,000/- each to the satisfaction of the trial Court undertaking to produce the vehicle Hero Honda Splender Plus bearing No. RJ-09-FS-1731 in the Court as and when required to do so.

(b) the petitioner shall get the vehicle Hero Honda Splender Plus photographed showing the registration number as well as the chassis number. Such photograph shall be taken in the presence of the Investigating Officer, to be kept on the file of the case.

(c) the personal bonds of the petitioner and bonds of sureties shall carry the photographs of the petitioner and his sureties and the bond of sureties shall further carry the photograph of perhaps identifying them before the Court which is with full residential particulars of the sureties and the persons identifying them.

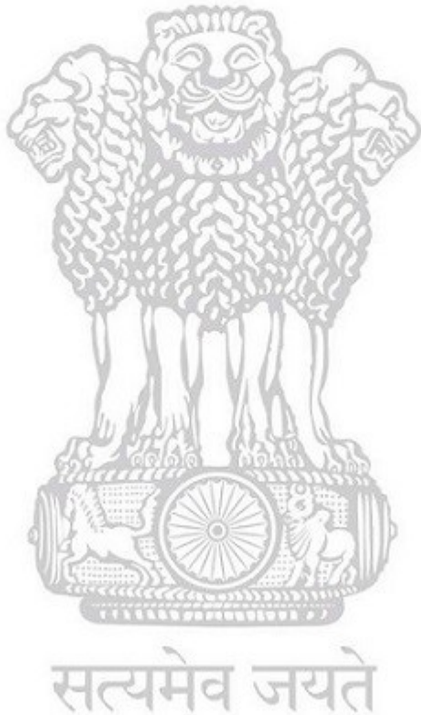
(d) the petitioner shall undertake not to transfer the ownership of the vehicle Hero Honda Splender Plus and not to lease it to anyone and not to make or allow any changes in it to be made so as to make unidentifiable.

(e) the petitioner will not allow the vehicle Hero Honda Splender Plus bearing No. RJ-09-FS-1731, to be used for any antisocial activities including for the purpose of carrying narcotics which may constitute offence under the NDPS Act."

(MANOJ KUMAR GARG),J

44-MS/-

RAJASTHAN HIGH COURT



सत्यमेव जयते