

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 78 of 2021

Shafik Ali, S/o. Khalik, aged about 55 years, R/o. Kurludih Bhuiyapara, P.S.- Sanawal, District- Balrampur - Ramanujganj, Chhattisgarh.

----Applicant

Versus

State of Chhattisgarh, Through : the Station House Officer, P.S. Sanawal, District- Balrampur - Ramanujganj, Chhattisgarh.

---- Respondent

For Applicant	: Ms. Parvati Suryavanshi, Advocate
For State/Respondent	: Mr. Adil Minhaj, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/03/2021

1. Challenge in this petition is to the order dated 17.12.2019, passed by the learned Special Judge, (N.D.P.S. Act), Balrampur, District – Balrampur - Ramanujganj (C.G.), passed in Special Sessions Case No. 03 of 2019, dismissing the application filed by the applicant for interim custody of the vehicle under seizure.
2. One motor cycle bearing No. UP-64-AF-7093 has been seized by the police of Police Station – Sanawal, District – Balrampur – Ramanujganj in connection with Crime No. 25/2019 for the offence under Section 21 (B) of N.D.P.S. Act from the accused persons.
3. It is submitted by the learned counsel for the applicant that the impugned order is erroneous and illegal and liable to be set-aside. The applicant is the registered owner of the seized vehicle. He is not an accused in the criminal case registered, in which, the seizure

of the vehicle has been made, therefore, on that basis, the applicant had entitlement for interim custody of the vehicle during the pendency of the trial. Therefore, the rejection order passed by the Court below is erroneous and liable to be set-aside. Hence, it is prayed that revision petition be allowed and the applicant be granted relief.

4. State counsel opposes the petition and the submission made in this respect. It is submitted that contraband, which was 110 bottles of Pensolux cough syrup, which had contained Codeine Phosphate were being transported in the motor cycle by the son of the applicant, therefore, the offence has been committed in the knowledge and connivance of the applicant. The learned trial Court has not committed any error in passing the impugned order. Hence, this revision petition be dismissed.
5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. Considered on the submissions. Prima-facie, the applicant being the registered owner of the vehicle has entitlement for interim custody of the vehicle under seizure. Secondly, the applicant is not an accused in this case and further, although the seized property is subject to confiscation under Section 60 of the N.D.P.S. Act, but this procedure can not be initiated until and unless the trial is concluded. As it is informed that the trial is yet to commence, therefore, for the present, the applicant being the registered owner of the seized vehicle bearing registration No. U.P.-64-AF-7093 has entitlement of interim custody. Therefore, looking to these circumstances present

and on the basis of entitlement of the applicant, interim custody of the said vehicle can be given to the applicant on appropriate direction and condition.

7. Accordingly, the revision petition is allowed. The impugned order dated 17.12.2019, passed by the learned Special Judge, (N.D.P.S. Act), Balrampur, District – Balrampur - Ramanujganj (C.G.), passed in Special Sessions Case No. 03 of 2019, is set-aside and it is directed that the vehicle bearing registration No. U.P.-64-AF-7093 be released in favour of the applicant by way of interim measure till the disposal of the trial. The learned trial Court is also directed to make an assessment of seized vehicle and pass an order accordingly for furnishing bonds and Supurdnama. On furnishing such bonds and Supurdnama, the vehicle in question be released in favour of the applicant with a condition that the applicant shall not transfer or change description/ features of the vehicle in question and he shall produce the said vehicle before the trial Court or confiscation authority when any such order is passed during the course of trial or confiscation proceeding.

Sd/-
(Rajendra Chandra Singh Samant)
Judge