

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 101 of 2021

Prashant Kathle, S/o Shri S.K. Kathle, Aged About 22 Years, R/o Sheela Parisar, Phase-2, Bharti Nagar, Police Station- Civil Lines, Bilaspur (C.G.)

----Applicant

Versus

State of Chhattisgarh, Through the Police Station- Koni, District- Bilaspur (C.G.)

---- Respondent

For Applicant : Mr. Dharmesh Shrivastava, Advocate

For State/Respondent : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

23/02/2021

1. This revision petition has been brought challenging legality, propriety and correctness of the order dated 29.12.2020, passed by the court of learned Additional Sessions Judge/ Second Fast Track Special Court, Bilaspur (C.G.) in M.J.C. No. 69/2020, dismissing the application of the applicant for grant of interim custody of the seized property the mobile phone.
2. In Crime No. 226/2019 registered for offence under Section 363, 365, 354, 506 read with Section 34 of the IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012, a

mobile phone has been seized from possession of this applicant.

The application filed for grant of interim custody of the mobile phone, has been rejected by the impugned order.

3. Learned counsel for the applicant submits that the impugned order is erroneous and illegal. The seized mobile phone has no connection with the offence registered against this applicant, which has not been appreciated by the court below. Hence, the impugned order is not sustainable and the same is liable to be set aside. It is prayed that this revision petition may be allowed and relief be granted to the applicant.
4. Learned State counsel opposes the petition submitting that the trial court has given specific reason for dismissing the application and that cannot be ignored. Hence, the court below has not committed any error in rejecting the application, therefore, this revision petition may be dismissed.
5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. Considered on the submissions. It is clear that there is no registration of any offence with regard to the Information Technology Act. It appears that the seizure of mobile phone from possession of this applicant, has no direct connection with the offences that are registered against him. Hence, in view of this observation, the applicant, who claims to be owner of the mobile phone, has entitlement for grant of interim custody of mobile phone in his favour.

7. Hence, for these reasons, the present revision petition is allowed.
The application for grant of interim custody of the mobile phone under seizure, is restored. The impugned order dated 29.12.2020, passed by the court of learned Additional Sessions Judge, Second Fast Track Special Court, Bilaspur (C.G.) in M.J.C. No. 69/2020, is set-aside. It is directed that the mobile phone under seizure, be released in favour of the applicant by way of interim measure on supurdnama of value, which shall be assessed by the trial court, till the disposal of the trial. Further, the applicant shall produce the mobile phone as and when directed by the trial court.
8. In view of the above, the instant revision petition stands disposed of.

Sd/-
(Rajendra Chandra Singh Samant)
Judge