

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 126 of 2021**

- Suraj Sahu S/o Shri Bheem Sahu Aged About 20 Years R/o Ganga Nagar, Near Government School, Near Sulabh, P. S. Khamtarie, Raipur District (Revenue and Civil) Raipur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, Raipur District Raipur Chhattisgarh

----Non-applicant

For Applicant : Shri Yogesh Chandra Pandey, Advocate.

For State/non-applicant : Shri Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05/03/2021

Heard.

1. This revision petition has been brought being aggrieved by the order dated 20-01-2021 passed in Special Criminal Case No.76/2020 by learned Special Judge (N.D.P.S. Act) Raipur (C.G.) dismissing the application for grant of interim custody of the seized scooter.
2. It is submitted by learned counsel for the applicant that the impugned order is erroneous. The applicant is registered owner of the said vehicle, therefore, he has entitlement for grant of interim custody of the same and that the reason mentioned for dismissal that the seized scooter is liable for confiscation, was not proper because the trial is pending and the stage for confiscation is available to the Court only after completion of the trial. Therefore, it is prayed that the revision petition be allowed and the applicant be granted relief.

3. Learned counsel for the State/non-applicant opposes and submits that the applicant himself was the person who was transporting ganja in his scooter and the ganja was seized from his possession, for which he is being prosecuted. Therefore, he has no entitlement for grant of custody of the said scooter.
4. Heard learned counsel for the parties and perused the documents.
5. The scooter bearing registration No. CG-04/ND-8609 has been seized by the P.S. Khamtaraie in connection with Crime No.536/2020. The applicant claims to be the registered owner of the vehicle. The reason mentioned in the impugned order is that the seized scooter is liable to be confiscated under Section 60 of the N.D.P.S. Act. Although the property seized in the case of commission of offence under the N.D.P.S. Act is liable for confiscation under Section 60 of the N.D.P.S. Act, but such proceeding for confiscation cannot be initiated before completion of the trial as it is provided under Section 63 of the N.D.P.S. Act. Hence, I am of this view that on the basis of the applicant being registered owner he is entitled for interim custody of the said vehicle.
6. Accordingly, this revision petition is allowed. The impugned order is set aside and it is ordered that on furnishing of a bond according to the valuation assessed by the trial Court the vehicle shall be released on interim custody in favour of the applicant, with a direction to produce the same as and when directed by the Court.

Sd/-
(Rajendra Chandra Singh Samant)
Judge