

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 192 of 2021

Balram Jha, S/o. Late Jagsai Ram Jha, aged about 39 years, R/o. Sandhya Jha 64, Slaice-3, Infornt of Shalimar Township, Sector-F, Scheme No.78, Aranya Nagar, Indore (M.P.), Presently Resident of Ward No. 2 Rajghat Colony, Pichhor, Shivpuri (M.P.) Through Power of Attorney Ramesh Kumar Ahirwar Son of Mangaldas Ahirwar, aged about 56 years, resident of Ward No. 10 Panda Colony, Khaniyadhana, District-Shivpuri (M.P.)

----Applicant

Versus

State of Chhattisgarh, Through : The Station House Officer, Police Station, Nagarnar, District- Jagdalpur (Chhattisgarh).

---- Respondent

For Applicant	: Mr. Rohan Patnaik on behalf of Mr. Goutam Khetrapal, Advocate
For State/Respondent	: Mr. Gurudev I. Sharan, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/03/2021

1. Challenge in this petition is to the order dated 18.08.2020, passed by the learned Special Judge, (N.D.P.S. Act), Jagdalpur, District - Bastar (C.G.), passed in Special Case No. (New No.) 06 of 2021, dismissing the application filed under Section 457 of Cr.P.C. praying for interim custody of the vehicle under seizure.
2. 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 Tata Motor bearing registration No. M.P.-09/HH/7142 and thus he has entitlement of interim custody of the same. The applicant is not an accused in the criminal case, 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.

3. State counsel opposes the petition and the submission made in this respect. It is submitted that the offence of transportation of contraband appears to have been committed in the knowledge and connivance of the applicant and further the seized vehicle is subject to confiscation under Section 60 of the N.D.P.S. Act. The learned trial Court has not committed any error in passing the impugned order. Hence, this revision petition be dismissed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Considered on the submissions. Firstly, the applicant is registered owner of the vehicle under seizure, which has been seized in connection with Crime No.126 of 2020, registered at Police Station – Nagarnar, District Jagdalpur for offence under Section 20 of the N.D.P.S. Act. Secondly, the charge-sheet has been filed. Thirdly, the confiscation proceeding, if any, is to be drawn, that can be drawn only after the conclusion of trial in the case against the accused persons according to Section 63 of N.D.P.S. Act, therefore, for the present, the applicant being the registered owner of the seized vehicle Tata Motor bearing registration No. M.P.-09/HH/7142 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.

6. Accordingly, the revision petition is allowed. The impugned order dated 18.08.2020, passed by the learned Special Judge, (N.D.P.S. Act), Jagdalpur, District - Bastar (C.G.), passed in Special Case No. (New No.) 06 of 2021, is set-aside and it is directed that the vehicle Tata Motor bearing registration No. M.P.-09/HH/7142 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