

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Proceedings through Video Conferencing

CR.R. No.314/2021

Mohd. Rajjak, S/o Mohd. Subrati, aged about 65 years, By Caste Muslim, R/o Village Lahsui Kotma, Thana Anuppur, Civil & Revenue District Anuppur (M.P.).

Applicant

VERSUS

State of Chhattisgarh, through District Magistrate Balodabazar, District Balodabazar-Bhatapara (CG).

Non-applicant

 For Applicant : Shri Samir Singh, Advocate
 For Resp/State : Shri Praveen Shrivastava, Panel Lawyer

Hon'ble Shri Justice N.K. Chandravanshi

Order On Board

07-07-2021

1. This revision has been preferred by the applicant against the impugned order dated 29.04.2021 passed by learned Special Judge (NDPS), Balodabazar (CG) in Special Case N.D.P.S. No.16/2020 (*State of Chhattisgarh Vs. Saif Ali & 3 others*), wherein the application under Section 451 of Cr.P.C. filed by the applicant was dismissed.

2. Brief facts pertaining to this revision are that on 31.07.2020 while checking vehicles, police of Police Station Gidhouri recovered 50.380 kg contraband article (*Ganja*) from a white colour unnumbered Scorpio vehicle having Engine No.SJL4A 10412 and Chachis No. L2S12438, later on, registration number of which was found to be C.G.16-CM-5609. FIR was registered under Section 20(B) of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, the 'Act') and after investigation charge-sheet has been filed, which is pending before the learned Court below as Special Case

N.D.P.S. No.16/2020. The applicant filed application under Section 451 of Cr.P.C. to get interim custody of the said vehicle, which was dismissed by the learned Court below by the impugned order.

3. Learned counsel for the applicant submits that the applicant was not found in the possession of the contraband article (*Ganja*), but after about more than one month, he has been added as an accused, only on the basis that he is a registered owner of the vehicle in which contraband article (*Ganja*) was found. He further submits that the applicant was not having knowledge regarding the offence because at the time of incident the said vehicle was used by the driver without his permission or knowledge. He further submits that the applicant has purchased the said vehicle by taking loan under High Purchasing Agreement and he is having all the documents of the said vehicle, which is lying in-abundant condition in the premises of police station since 31.07.2020. Not only the parts of the vehicle are damaged but also the business of the applicant is suffering adversely. The applicant is ready to fulfill all the conditions imposed by the Court, but without considering the aforesaid facts properly, the learned Court below has rejected the application erroneously, which is not sustainable in the eye of law.

4. Per contra, learned counsel for the State/non-applicant opposes the contentions made by the learned counsel for the applicant submitting that the applicant himself is an accused in the said case and the learned Court below has rightly dismissed the application considering all the relevant facts of the case, therefore, impugned order does not require any interference.

5. I have heard learned counsel for the parties and perused the documents available on record.

6. Perusal of documents available on record shows that the applicant himself is one of the accused of concerning Special Case N.D.P.S. No.16/2020. Although, the applicant has mentioned in his revision petition that he was not having knowledge regarding the commission of crime because the said vehicle was being used by the driver in the alleged offence without his permission or knowledge, but he has not stated that when it came to his knowledge that his vehicle was used in the alleged offence, what action he took after getting the knowledge i.e. whether he informed the police about the said fact and about the name of the driver of the said vehicle, how the vehicle was engaged in transporting the contraband article (*Ganja*).

7. Learned counsel for the applicant submits that the co-ordinate Bench of this Court has held in order dated 11.12.2020 passed in Criminal Miscellaneous Petition No.1374/2020 (Tikeshwar Singh Vs. State of Chhattisgarh) that "If vehicle is seized for commission of offence under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985, interim custody can be granted under Section 451/457 of the Code of Criminal Procedure, 1973."

8. The said case is distinguishable to the case in hand because in this case the applicant himself is one of the accused in the charge-sheet. Although the applicant is said to be owner of the said vehicle but as mentioned above, he is one of the accused in this

case and his vehicle was used in transporting commercial quantity of contraband article (*Ganja*). The applicant has not mentioned any specific fact as to how said vehicle was engaged for transportation of the said contraband article (*Ganja*).

9. Looking to the above facts and provision of Section 60(3) of NDPS Act, 1985, I am not inclined to allow this revision petition.

10. In view of the above discussion, in the opinion of this Court, the Court below has not committed any illegality in rejecting the application filed by the applicant under Section 451 of Cr.P.C. for getting the interim custody of the vehicle in question.

11. Accordingly, the revision petition being devoid of merits, deserves to be and is hereby dismissed.

**Sd/-
(N.K. Chandravanshi)
JUDGE**

L/-