

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CR.R. No. 368 of 2021**

Satinder Singh Samra S/o Shri Ajit Singh Samra, aged about 61 years R/o 59, Shubh Sampada Colony, Opposite Samar Park, Indore, Madhya Pradesh, PIN - 452010. (Registered owner of the vehicle, application in Court below was filed by the power of attorney Raspal Singh on behalf of present applicant) (wrongly mentioned in impugned order as Satinder Singh full name is as mentioned above)

**---- Applicant****Versus**

State of Chhattisgarh through Police Station Pushpal, District-Sukma (CG)

**----Non-applicant**

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 For applicant : Mr. Anmol Sharma, Adv.  
 For respondent : Mr. Devesh Verma, Govt. Adv.  
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**Hon'ble Shri Justice N.K. Chandravanshi**  
**Order on Board**

**7-9-2021**

1. This criminal revision has been preferred by the applicant being aggrieved by the order dated 21-8-2019 passed by the learned Special Judge (NDPS Act), Distt. South Bastar, Dantewara (CG) in Special Case No. 33/2019 (State of CG -v- Ashish Kumar Pandey) by which the application under Section 457 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.') for handing over the vehicle – Ashok Leyland bearing registration No. MP 09 HG 5134 (in short 'vehicle in question') to him on supurdnama has been rejected.

2. Brief facts of the case are that on 21-6-2019 at 11.30 pm on receiving the information that contraband article Ganja is being transported in the vehicle in question from Padmagiri Orissa to Sukma, police of PS Puspall stopped said vehicle at village Gumma, Main Road. In search of the said vehicle, 1215.295 kg of Ganja (including weight of bags) was seized which was kept in 28 plastic bags kept in separately built chambers in trolley of the vehicle. Police also seized the said vehicle with its papers and

mobile etc. On the basis of above, offence under Crime No. 9/2019 under the provisions of Narcotic Drugs and Psychotropic Substances Act, (in brief 'NDPS Act') has been registered against the driver of the vehicle namely Ashish Kumar Pandey and the same is pending consideration as Special Case No. 33/2019 (State of Chhattisgarh Vs. Ashish Kumar Pandey) in the Court of Special Judge (NDPS Act), Dantewara.

3. The applicant filed an application for *supurdnama* under the provisions of Section 457 of the Cr.P.C. for custody of the vehicle in question on the ground that he is owner of the said vehicle. He is not accused in the case. He sent the vehicle after loading goods from Indore to Jagdalpur. He is not involved in the offence. The said vehicle is kept in open place at police station and there is possibility that the vehicle may be damaged. Therefore, it be handed over to the applicant during pendency of the criminal case.

4. The Special Judge (NDPS Act), South Bastar, Dantewara by its impugned order dated 21-8-2019 rejected the said application on the ground that 12 quintal, 15 kg and 295 gm contraband Ganja was transported in the said vehicle by making separate cabin in the trolley, if it is handed over to the applicant, it will increase courage of such people. Hence, this revision.

5. Learned counsel appearing for the applicant submit that the applicant is registered owner of the vehicle in question. He is not accused in the case. He had sent the vehicle from Indore to Jagdalpur after loading the goods. He had also written to the police regarding missing of vehicle and driver. No useful purpose would be served by keeping the vehicle in the custody of the Court, as if the vehicle is not in use, it is likely to be damaged. It is kept in open place and, therefore, impugned order passed by the Special Judge be set aside and the vehicle in question may be given to him on *supurdnama*. He placed reliance on decision of Hon'ble Supreme Court in the matter of **Sunderbhai Ambalal Desai -v- State of Gujarat** [2002(10) SCC 283], decisions of coordinate benches of this Court in **Tikeshwar Singh -v- State of**

**CG** dated 11-12-2020 passed in Cr.M.P. No. 1374/2020, and **Manoj Giri -v- State of CG** dated 24-2-2021 passed in Cr. R. No. 701/2020.

6. On the other hand, learned counsel appearing for the State submits that huge quantity of 1215.295 kg of contraband article Ganja has been seized from the vehicle in question. The trolley of vehicle was specially modified for transporting such article, therefore, it cannot be said that transportation of alleged contraband article was not in the knowledge of applicant/owner. If the vehicle is handed over to the applicant, there is possibility that it may be again misused in transporting such contraband articles. Therefore, the Special Judge has rightly rejected the application for supurdnama and the impugned order does not call for any interference by this Court in exercise of revisional jurisdiction.

7. I have heard learned counsel for the parties and perused the material available on record and the impugned order.

8. A perusal of the impugned order and the case diary shows that 1215.295 kg alleged contraband article Ganja was allegedly transported in the vehicle in question, for which, separate chambers were made in the trolley (Dala) of the vehicle. Such type of modification in trolley part of the vehicle in question does not seem to have been done without knowledge of the owner, therefore, it seems that transportation of alleged contraband was well within the knowledge of the applicant/owner. As per sub-section (3) of Section 60 of the NDPS Act, *any conveyance used in carrying any narcotic drug or psychotropic substance, shall be liable to confiscation, unless owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any and the person-in-charge of the conveyance and that each of them had taken all reasonable precautions against such use.*

9. Looking to the facts of this case, it does not seem that huge quantity of 1215.295 kg Ganja was being transported without knowledge of the applicant/owner, because, as has been stated

above, separate chambers were made in the trolley side of the vehicle in question.

10. There is no doubt about legal proposition that under the NDPS Act, the vehicle used for transporting contraband article and seized under the NDPS Act can be granted under supurdnama, but where such a huge quantity of contraband article Ganja was being transported in the vehicle in question and, separate chambers were made only for said purpose, and it does not seem that these facts were not in the knowledge of the owner, then in such type of facts, I do not feel inclined to give the vehicle in supurdnama. Facts of this case are distinguishable from facts of the cases cited by learned counsel for the applicant, and therefore, they are of no help to him.

11. Having considered the facts and circumstances of the case and material available on record, in the opinion of this Court, the trial Court has not committed any error in rejecting the application for releasing the vehicle in supurdnama.

12. Hence, the revision being devoid of substance, deserves to be and is hereby dismissed.

**Sd/-  
N.K. Chandravanshi  
Judge**