

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Proceedings through Video Conferencing
CR.R. No. 402 of 2021

Naresh Sharma S/o Ram Swaroop Sharma, Aged About 54
 Years R/o Sattipara Sharma Tent House Ambikapur District
 Surguja CG

---- Applicant

Versus

State of Chhattisgarh through - District Magistrate,
 Ambikapur, District Surguja CG

----Non-applicant

 For Applicant : Mr. Sanjay Pathak, Adv.
 For respondent : Mr. Raghvendra Verma, Govt. Adv.

Hon'ble Shri Justice N.K. Chandravanshi
Order on Board

4-8-2021

1. This criminal revision has been preferred by the applicant being aggrieved by the order dated 5-6-2021 passed by the learned Special Judge (N.D.P.S.), Ambikapur (CG) in Sessions case No. 14/2021 (State of CG -v- Mohammad Gufran Siddiqui alias Sonu and another) by which the application filed by him under Section 457 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.') for handing over the vehicle Alto 800 VXi bearing registration No. CG 15 DF 1537 to him on supurdnama has been rejected.

2. Brief facts of the case are that the applicant is a registered owner of vehicle in question Alto 800 VXi bearing registration No. CG 15 DF 1537. On 3-2-2021, 116 nos of Chlorpheniramine Maleate Codeine Phosphate Syrup, each containing 100 ml., total 11,600 ml, were seized from the vehicle in question which were kept in a black bag in the Dicky. Said vehicle was also seized. Offence under Section 21 B of the Narcotic Drugs and Psychotropic Substances Act, (in short 'NDPS Act') under Crime No. 143/2021 was registered and the same is pending consideration as Special Criminal (NDPS) Case No. 14/2021 (State of Chhattisgarh Vs. Moh. Gufran Siddiqui alias Sonu and anr.) in the Court of Special Judge (NDPS Act), Ambikapur.

3. The applicant filed an application for supurdnama under the provisions of Section 457 of the Cr.P.C. for custody of the said vehicle on the ground that the said vehicle is kept in open place and if not used, said vehicle is likely to be damaged. The accused persons had taken his car for bringing tiles and when they returned, police stopped the car and implicated them in the offence. No useful purpose would be served by keeping the vehicle in the court's custody and, therefore, it be handed over to the applicant during pendency of the criminal case.

4. The Special Judge, by its impugned order dated 5-6-2021, rejected the said application on the ground that though the applicant has taken ground that the accused had taken his car to bring tiles, but tiles have not been seized from the car, therefore, it is clear that the vehicle in question was used in transporting the narcotic drugs. Hence, this revision.

5. Learned counsel appearing for the applicant submit that the applicant is the registered owner of the vehicle. He is not accused in the case. The accused was using said vehicle in transporting the contraband article without his knowledge. 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, and, therefore, impugned order passed by the Special Judge be set aside and the vehicle in question may be given to him on supurdnama.

6. On the other hand, learned counsel appearing for the State submits that huge amount of contraband article has been seized from the vehicle in question, and 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 shows that alleged vehicle has been seized and is standing idle in the custody of police from 3-2-2021. The applicant is owner of the vehicle. He is not accused in this case. The car is a vehicle of daily use. If it is kept in such condition for a long time, its parts are likely to be ruined. Looking to the above facts and the order passed by coordinate bench of this Court in Cr.M.P. No. 1374/2020, I feel inclined to allow this revision petition.

9. Accordingly, the impugned order dated 5-6-2021 passed by learned Special Judge (NDPS), Ambikapur, in Sessions Case No. 14/2021 is set aside. The Revision petition is allowed and it is directed that vehicle in question Alto 800 VXi bearing registration No. CG 15 DF 1537 be released and handed over to the applicant on the following conditions:-

(i) The applicant shall execute a bond in a sum of 2,00,000/- (Two lacs) with two solvent sureties of Rs. 1,00,000/- (One lac) each to the satisfaction of the Special Judge (NDPS), Ambikapur.

(ii) The applicant must satisfy the court that he is the registered owner of the offending vehicle.

(iii) The applicant shall not transfer or dispose of the offending vehicle to any one else and shall not make any change in its body, colour or engine.

(iv) The applicant shall also file an undertaking before the trial Court that the offending vehicle shall not be used for commission of any offence; and before giving custody of the offending vehicle to the applicant, three coloured photographs of cabinet size from different angles clearly indicating registration number and other particulars of the vehicle shall be kept on file. The expenses for the photographs shall be borne by the applicant.

(v) The applicant shall produce vehicle either before trial Court or before such authorities as may be directed, on his own expenses, as and when directed.

Sd/-

N.K. Chandravanshi
Judge