

HIGH COURT OF CHHATTISGARH, BILASPUR**Reserved on 16-6-2021****Pronounced on 30- 6-2021****CRMP No. 957 of 2020**

- Ramlakhan Choudhary S/o Ketaru Choudhary Aged About 43 Years
R/o Bariyo, Police Chowki Bariyo, Police Station Rajpur, District
Balrampur Ramanujganj Chhattisgarh. ---- **Petitioner**

Versus

- State of Chhattisgarh through Station House Officer, Police Station
Ramanujganj, District Balrampur, Ramanujganj CG. ---- **Respondent**

For Petitioner: Mr. Sangeeto Soni, Advocate
For State: - Mr. Gurudev I Sharan, Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas**CAV Order**

1. The petitioner has filed present petition under Section 482 of the CrPC assailing the legality and propriety of the order dated 5-5-2020 (Annexure A/1) passed by the learned Special Judge (NDPS), Balrampur, District Ramanujganj in Supurdnama case No. 15 of 2020 whereby the learned Special Judge, Ramanujganj has rejected the application of the petitioner for releasing his vehicle.
2. The facts of the case, in brief, are that the petitioner is the registered owner of vehicle bearing registration No. CG 10-C 2039. On 13-4-2020 the said vehicle driven by Sudama was being transported contraband cough syrup. When the said vehicle was searched by the investigating agency, it was found that one cartoon contains 118 pieces of Narcotic cough syrups bearing batch No.

38119-5MBI, each containing 100 ML. The police issued notice to the driver of the vehicle under Section 91 of the Act and thereafter the said vehicle and contraband drugs were seized. The petitioner being owner of the said vehicle has filed an application under Section 457 of the Cr.P.C., for interim custody of the said vehicle on Suprudnama before the learned Special Judge (NDPS). The petitioner has also annexed copy of RC book in which name of the petitioner has been shown as owner of the vehicle. Learned Special Judge vide its impugned order dated 5-5-2020 has rejected the said application holding that since the vehicle in question is liable to be confiscated under Section 60 of the NDPS Act, therefore, it cannot be directed to be released on interim custody, against which the petitioner has filed present petition.

3. Learned counsel for the petitioner would submit that the petitioner is the owner of the said vehicle, therefore, he is entitled to get the vehicle on Supurdnama. The said vehicle was not involved in any crime, but the Police seized the vehicle on suspicion. From bare perusal of the charge-sheet it is reflected that the Police has wrongly seized the said vehicle. The learned trial Court has committed illegality in not releasing the vehicle on Supurdnama, the offending vehicle will lose its significance and may get destroyed if it is kept in open space which will adversely affect the systems of the vehicle. He would further submit that the petitioner is ready to furnish the adequate suety and shall obey the conditions which may be imposed by the trial Court and would pray tht the order dated 5-5-2020 passed by the Special Judge(NDPS) be quashed and the said vehicle be released to him on Supurdnama.

Learned counsel for the petitioner would further submit that the coordinate Bench of this Court in Cr.M.P. No. 1374 of 2020 in the case of *Tikeshwar Singh vs. State of Chhattisgarh* decided on 11.12.2020, Cr.M.P. No. 524 of 2017 in the case of *Jyoti Pratap Singh vs. State of Chhattisgarh and Another* decided on 25.04.2017 and Cr.M.P. No. 562 of 2016 in case of *Sonela Patel vs State of C.G. and others* decided on 07.07.2016 as well as the Hon'ble High Court of Madhya Pradesh in case of *Rocky Verma (died) Thr. His Legal Wife Smt. Juli Verma vs State of M.P.* decided on 24.02.2021 has released the vehicle on Supurdnama and this case is squarely covered by the aforesaid decisions passed by the coordinate Bench of this Court as well as Hon'ble High Court of Madhya Pradesh. Hon'ble Supreme Court in the case of **Ashok Kumar vs State of Bihar**¹ has considered the necessity of releasing vehicle on Supurdnama and has held that it is not necessary to keep the vehicle in the compound of the Court indefinitely for a very long time till the final disposal of the case.

4. Per contra, learned State counsel though opposes the submissions of learned counsel for the petitioner, but does not dispute the legal preposition held by the Hon'ble Supreme Court and this Court as well as the Hon'ble Single Judge of the High Court of Madhya Pradesh.
5. After hearing learned counsel for the parties, considering the facts and circumstances of the case, further considering the decision by the Hon'ble Supreme Court in **Ashok Kumar vs State of Bihar** (supra) and considering the fact that the petitioner is the

1 (2001) 9 SCC 718

registered owner of the motor cycle and it is of no use to keep the seized vehicle at the police station for a long time, it is directed that the vehicle bearing registration No.CG-10-C-2039 shall be released to the petitioner on the following conditions :-

(I) The petitioner shall execute a bond in the sum of Rs. 50,000/- (Fifty Thousand) with two solvent sureties to the satisfaction of the Special Judge (NDPS Act), Raipur.

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

(iii) The petitioner 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. It is needless to say that make, colour, chassis number, and engine number of the offending vehicle shall be furnished by the petitioner before the trial Court with an undertaking that no damage shall be caused or no part of the vehicle be substituted.

(iv) The petitioner shall also file an undertaking before the trial Court that the offending vehicle shall not be used for commission of offence; and before giving interim custody of the offending vehicle to the petitioner, three coloured photographs of cabinet size from the different angles clearly indicating registration number and other particulars like chasis number etc. of the vehicle taken in the presence of responsible officer deputed by the trial Court shall be kept in the file of the case. The expenses for the photographs shall be borne by the petitioner.

(v) The petitioner shall produce vehicle either before this Court or before the Collector or such authorities as it may be directed, on his own expenses.

(vi) In the event of confiscation order by the competent Court, the petitioner shall keep present the vehicle positively for confiscation.

6. Copy of the order be sent to the learned trial Court for necessary compliance.
7. With the aforesaid observations and directions, the instant petition is allowed by setting aside the order dated 5-5-2020 (Annexure A/1) passed by the Special Judge.

Sd/-

(Narendra Kumar Vyas)

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Raju