

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Proceedings through Video Conferencing
CR.R. No. 466 of 2021

- Dharampal Sahu S/o Bhagwat Sahu Aged About 35 Years R/o Village Darri Police Station Khamariya District Bemetara CG

---- Applicant

Versus

- State of Chhattisgarh through Station House Officer, Police Station - Tongpal District - Sukma, CG

----Non-applicant

 For applicant : Mr. Saumitra Kesharwani, Adv.
 For respondent : Mr. Devesh Verma, Govt. Adv.

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

16-8-2021

1. This criminal revision has been preferred by the applicant against order dated 6-7-2021 passed by learned 1st Addl. Sessions Judge/ Special Judge (NDPS Act), South Bastar, Dantewada in Special Criminal Case (NDPS Act) No. 13/2020 (State of CG -v- Lav Singh Chauhan) by which the application under Section 451 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.') for handing over the vehicle Renault Duster bearing registration No. CG-15-CZ-6605 (in short 'vehicle in question') to him on supurdnama has been rejected.

2. Brief facts of the case are that upon secret information received from the informant on 6-7-2020, police of PS Tongpal, Distt. Sukma, stopped the vehicle in question and seized 164.935 kg contraband article Ganja from illegal possession of driver Lav Singh Chauhan. After usual investigation, police filed charge sheet under Section 20(b) of Narcotic Drugs and Psychotropic Substances Act, (in brief 'NDPS Act') against Lav Singh Chauhan and the applicant who is said to be owner of the seized vehicle.

3. The applicant filed an application under Section 451 of the Cr.P.C. before learned trial Court mentioning himself as owner of the vehicle in question and also mentioning that the vehicle is lying stationary since 6-7-2020. Its parts are getting damaged. It is a vehicle of personal use of the applicant. He is ready to abide all the conditions which may be imposed by the Court. Therefore, the

vehicle in question be handed over to him on supurdnama till disposal of the case.

4. After due consideration, learned trial Court dismissed the application vide order dated 6-7-2020. Hence, this revision.

5. Learned counsel appearing for the applicant submits that main accused Lav Singh Chauhan was known to him prior to this incident. On 2-7-2020, he requested to take his vehicle to go to hospital at Raipur. Therefore, the applicant gave his vehicle for the purpose of going to hospital at Raipur, but without his knowledge, he was allegedly transporting contraband Ganja. The applicant was not aware about these facts. Despite that, police have fasten him in this case as accused, only on the basis that he is owner of the vehicle. He further submits that parts of the vehicle in question are getting damaged because of its standing in abandoned condition in the premises of police station. It is a vehicle of personal use of the applicant. Final conclusion of trial may take a long time, therefore, the vehicle may be handed over to him. But, the trial Court without considering above facts, dismissed the application under Section 451, Cr.P.C., which is illegal and not sustainable.

6. Per contra, learned State Counsel submits that after registration of the F.I.R., the applicant had absconded, which shows his involvement in the case. He is one of the accused in this case and he was knowingly transporting contraband article Ganja in his vehicle. Therefore, learned trial Court has not committed any error in passing the impugned order.

7. I have heard learned counsel for the parties and perused the impugned order and case diary of the case.

8. A perusal of the case diary shows that the applicant was not on the spot when the vehicle in question carrying 164.935 kg. Ganja was stopped and seized. At that time, main accused Lav Singh Chauhan was present in the said vehicle. Said vehicle and the contraband article Ganja was seized from possession of main accused Lav Singh Chauhan. As per applicant, since main accused Lav Singh Chauhan was known to him prior to the incident, he had

taken his vehicle on the pretext of going to hospital at Raipur, as has been stated by learned counsel for the applicant. Looking to the above facts, I feel inclined to allow this revision petition because if the vehicle in question remains standing in abandoned condition, no useful purpose would be served, rather, the vehicle will get damaged by the lapse of time.

9. Accordingly, the impugned order dated 6-7-2021 passed by learned 1st Addl. Sessions Judge/Special Judge (NDPS Act), South Bastar, Dantewada, in Special Criminal case (NDPS Act) No. 13/2020 is set aside. The Revision petition is allowed and it is directed that vehicle in question be released and handed over to the applicant on the following conditions:-

(i) The applicant shall execute a bond in a sum of 10,00,000/- (Ten lacs) with two sureties of Rs. 5,00,000/-(Five lacs) each to the satisfaction of the trial Court.

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

(iii) The applicant shall not transfer or dispose of the vehicle in question 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 vehicle in question shall not be used for commission of any offence; and before giving custody of the vehicle in question 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 in question 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**