

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 655 of 2020

Radheshyam Kashyap, S/o. Ram Bahadur Kashyap, aged about 38 years,
R/o. Savitri Bai Fule Ward, Gondia, Kumbhare Nagar, District - Gondia,
Maharashtra.

----Applicant

Versus

State of Chhattisgarh, Through : The Police Station Tundra- Gidhouri, District
Baloda Bazar (Chhattisgarh).

---- Respondent

For Applicant : Ms. Supriya Upasne, Advocate

For State/Respondent : Mr. Adil Minhaj, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

05/04/2021

1. Challenge in this petition is to the order dated 11.09.2020, passed by the learned Special Judge, (N.D.P.S. Act), Balodabazar, District – Balodabazar (C.G.), passed in M.J.C. No. 18 of 2020, dismissing the application filed by the applicant for interim custody of the vehicle under seizure.
2. One truck bearing registration No. MH-35-AJ-0677 has been seized from the possession of the accused persons in Crime No. 201/2020, registered in Police Station – Tundra -Gidhouri, District – Baloda Bazar in connection with illegal transportation of contraband (Cannabis).
3. It is submitted by the learned counsel for the applicant that the applicant is the registered owner of the seized vehicle and he has entitlement of the interim custody. The learned Court below has

rejected the application only on the ground that the quantity of the contraband is high and the vehicle is not registered in this State, therefore, order passed is erroneous, which is liable to be set-aside. Hence, it is prayed that revision petition be allowed and the applicant be granted relief.

4. State counsel opposes the petition and the submission made in this respect. It is submitted that vehicle has been seized in connection with illegal transportation of huge quantity of Cannabis. The seized vehicle is subject to confiscation under Section 60 of the N.D.P.S. Act. Further the applicant is the resident of Maharashtra, therefore, if the, vehicle is granted on interim custody, then there is possibility that the vehicle may not be available for further proceeding in the trial and in the confiscation proceeding. Hence, this revision petition be dismissed.
5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. The applicant appears to be registered owner of the vehicle under seizure. He is not one of the accused in the case. Further the confiscation proceeding, which in future can be initiated only after completion of trial. Therefore, looking to the circumstances present and on the basis of entitlement of the applicant, interim custody of the said vehicle can be given to the applicant on appropriate direction and condition.
7. Accordingly, the revision petition is allowed. The impugned order dated dated 11.09.2020, passed by the learned Special Judge, (N.D.P.S. Act), Balodabazar, District – Balodabazar (C.G.), passed

in M.J.C. No. 18 of 2020, is set-aside and it is directed that the vehicle bearing registration No. M.H.-35-AJ-0677 be released in favour of the applicant by way of interim measure till the completion of the trial or the confiscation proceeding if it is drawn against the seized vehicle. The learned trial Court is also directed to make an assessment of seized vehicle and pass an order accordingly for furnishing bonds and Supurdnama. On furnishing such bonds and Supurdnama, the vehicle in question be released in favour of the applicant with a condition that the applicant shall not transfer or change description/ features of the vehicle in question and he shall produce the said vehicle before the trial Court or confiscation authority when any such order is passed during the course of trial or confiscation proceeding.

Sd/-
(Rajendra Chandra Singh Samant)
Judge