

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 573 of 2021**

Mohan Kumar S/o Shri Umesh Kumar Gautam aged about 25  
Years R/o Industrial Area, Hari Nagar, Krishna Nagar Tahsil  
Mathura District Mathura (U.P.)

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

State of Chhattisgarh Through SHO- Police Station Borai District  
Dhamtari CG

**----Non-applicant**

-----  
For applicant : Mr. Dheerendra Pandey, Adv.  
For respondent : Mr. Afroz Khan, Panel Lawyer.  
-----

**Hon'ble Shri Justice N.K. Chandravanshi****Order on Board****20-9-2021**

1. This criminal revision has been preferred by the applicant being aggrieved by the order dated 24-8-2021 passed by the learned Special Judge (NDPS Act, 1985), Dhamtari (CG) in Special Criminal Case (NDPS) No. 150/2018 by which the application under Section 451 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.') for handing over the vehicle – Tata Safari bearing registration No. UP 85 BF 0022 (in short 'vehicle in question') to him on supurdnama has been rejected.

2. Brief facts of the case are that on 29-9-2018, police of PS Borai, Distt. Dhamtari received information that two persons are carrying contraband article Ganja in the vehicle in question from Koraput, Orissa towards Dhamtari, Raipur. On such information, they stopped the vehicle in question, two persons namely Mohan Kumar Gautam (present applicant) and Gourav Kumar were in the vehicle. On search of the vehicle, contraband article Ganja kept in four plastic bag each containing 16 kg, total 64 kg. was seized. Police also seized the vehicle in question. On the basis of above, offence under Crime No. 28/2018 under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, (in brief 'NDPS Act') has been registered against applicant Mohan Kumar Goutam and Gourav Kumar Jat. The applicant filed an application for

supurdnama under the provisions of Section 451 of the Cr.P.C. for custody of the vehicle in question. The Special Judge (NDPS Act), Dhamtari by its impugned order dated 24-8-2021 rejected the said application on the ground that earlier same applications have been rejected twice on merit. Hence, this revision.

3. Learned counsel appearing for the applicant submit that the applicant is registered owner of the vehicle in question. 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], decision of coordinate bench of this Court in **Tikeshwar Singh -v- State of CG** dated 11-12-2020 passed in Cr.M.P. No. 1374/2020.

4. On the other hand, learned counsel appearing for the State submits that huge quantity of 64 kg of contraband article Ganja has been seized from the vehicle in question. 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.

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

6. A perusal of the impugned order and the case diary shows that 64 kg alleged contraband article Ganja was allegedly transported in the vehicle in question. The applicant himself was present in the vehicle in question and 32 kg. Ganja has been seized from him. 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.*

7. No doubt, under the NDPS Act, the vehicle used for transporting contraband article and seized under the NDPS Act can be granted under supurdnama, but in the instant case, huge quantity (more than commercial quantity) of contraband article Ganja was being transported in the vehicle in question, that too, the applicant who is owner of the vehicle, was himself involved in the aforesaid offence and he is accused in this case, therefore, 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.

8. 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.

9. Hence, the revision being sans substance, deserves to be and is hereby dismissed.

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