

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 656 of 2021

- Jadumani, S/o Sadai Prasad, aged about 55 years, R/o Dahna Jhariya (Barkhoriya, P.S. Lailunga, District Raigarh (C.G.)
---- Applicant/Petitioner

Versus

- State of Chhattisgarh, through the Station House Officer, Police Station Sitapur, District Surguja (C.G.)
Crime No. 151/2021 Police Station Sitapur, District Surguja
In the rejection order, wrongly mentioned as Spl.ST No. 151/2021, in fact, it is a crime number, as per challan
---- State/Respondent

For Applicant/Petitioner	:	Shri Jitendra Shrivastava, Advocate
For Respondent/State	:	Shri Anand Verma, Deputy Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

26.10.2021

1. By way of the present criminal revision filed under Section 397 read with Section 401 of Cr.P.C., the petitioner has challenged the order dated 19.08.2021 passed by the Special Judge (N.D.P.S.), Surguja, Ambikapur (C.G.) in M.Cr.C. No. 26/2021 whereby the application of the petitioner preferred under Section 457 Cr.P.C. for releasing of the vehicle (Motorcycle) bearing registration No. CG-13-Y-5140 on Supurdnama has been rejected.
2. Learned counsel for the petitioner submits that the petitioner is the registered owner of the vehicle; there is no chance of his abscondance and he will produce the vehicle as and when it is required. He further submits that the trial Court has mentioned in the rejection order itself that the petitioner is the owner of the offending vehicle and the confiscation proceedings have not yet been started. He also submits that on the date of incident the police seized the offending vehicle and one mobile-phone of the petitioner, though the mobile-phone has been returned to the petitioner on supurdnama pursuant to the order impugned, however, the court below

declined to give the offending vehicle to the petitioner on supurdnama. He further submits that the said vehicle is likely to be damaged due to exposure to sun and rain and, as such, no useful purpose would be served in keeping the vehicle in the police station, and therefore, it be handed over to the petitioner during pendency of the criminal case and the order of Special Judge be set aside. Reliance has been placed on the order dated 26.06.2015 passed by the coordinate bench of this Court in ***Manoj Kumar Sharma vs. State of Chhattisgarh, CRR No. 421/2015***.

3. On the other hand learned counsel for the State opposed this criminal revision.
4. Heard learned counsel for the parties.
5. Keeping in view the judgments of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai Vs. State of Gujrat, 2002 (10) SCC 283***; ***Multani Hanifbhai Kalubhai Vs. State of Gujrat & Another, 2013 (3) SCC 240*** and order of the coordinate bench of this Court in *Manoj Kumar Sharma* case (supra) and considering the fact that the petitioner is the registered owner of the motorcycle and it is of no use to keep the seized motorcycle at the police station for a long time, it is directed that the motorcycle bearing registration No. CG -13 – Y – 5140 shall be released to the petitioner on supurdnama on the following conditions:-

- (a) Petitioner shall execute a bond in a sum of Rs.1,00,000/- with two solvent sureties to the satisfaction of the Special Judge (NDPS Act, 1985), Surguja, Ambikapur (C.G.).
- (b) Petitioner must satisfy the court that he is the registered owner of the offending vehicle.
- (c) 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.

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

6. Consequently, the impugned order is set aside. The revision is allowed accordingly.

Sd/-

(Gautam Chourdiya)
Judge

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