

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 701 of 2020**

- Manoj Giri S/o Shri Gopal Giri, Aged About 35 Years, R/o Behind Sharda Mandir, Sharda Nagar, Ranjhi, Jabalpur District Jabalpur (Madhya Pradesh), District : Jabalpur, Madhya Pradesh

---- Applicant**Versus**

- State Of Chhattisgarh, Through P.S. Nagarnar, District Bastar Jagdalpur Chhattisgarh, District : Bastar (Jagdalpur), Chhattisgarh

----Respondent

For Applicant : Shri Anand Dadariya, Advocate.

For State/Respondent : Shri D.P. Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****24/02/2021**

Heard.

1. This revision petition has been brought being aggrieved by the order dated 02-09-2020 passed by learned Special Judge (N.D.P.S. Act) Jagdalpur (C.G.) in Special Case No.27/2020 dismissing the application for grant of interim custody of the vehicle under seizure.
2. It is submitted that the applicant is registered owner of vehicle Innova bearing registration No. MP 07 BA 5133. The fact is this, that this vehicle was stolen from possession of this applicant in the night of 21-01-2020 regarding which he has lodged one FIR in Police Station Ranjhi, District Jabalpur on 22-01-2020. The applicant then came to know, that this vehicle has been seized by the police on 22-01-2020 from accused persons who are unknown to the applicant, therefore, this applicant has no connection with commission of the offence under the N.D.P.S. Act. Being registered owner of the

vehicle he has entitlement of interim custody of that vehicle. Hence, the impugned order of rejection is erroneous and liable to be set aside. Therefore, it is prayed that the revision petition be allowed.

3. Learned counsel for the State/respondent opposes and submits that story of the applicant appears to be doubtful, as the incident of seizure of the vehicle has occurred on 22-01-2020 at 11:15 a.m., whereas the FIR of the theft of the vehicle has lodged on the same night at 22:20 p.m. Further, the seized vehicle is liable for confiscation under Section 60 of the N.D.P.S. Act. Hence, the applicant has no entitlement for grant of interim custody. Learned Court below has not committed any error in passing the impugned order. Therefore, the revision petition may be dismissed.
4. The Seizure of the vehicle has been made from accused persons, namely, Mohd. Vakil and Ramjeet Rathore who are residents of Pendra Road, District Bilaspur, whereas, the applicant is resident of Jabalpur. The applicant is not accused in this case. Further, it is asserted by him that he is registered owner, hence, on this basis he has claim on the vehicle seized. Confiscation of vehicle under Section 60 of the N.D.P.S. Act can be carried out only at the stage when the trial is completed, as provided under Section 63 of the N.D.P.S. Act. Further, learned Court below has disbelieved the version of the applicant for rejecting his application, whereas, the FIR lodged by him in P.S. Ranjhi, Jabalpur appears to be under investigation and there is no report that the offence registered in that case has terminated against the lodger of the FIR. Further, the trial in the case before the Special Court, Jagdalpur, is still pending

and decision for confiscation can be taken at the stage of conclusion of this trial. Hence, during pendency of the trial interim custody of the seized vehicle can be granted to the applicant. Therefore, I am of this view that the order passed by the trial Court is erroneous which needs interference. Accordingly, this revision petition is allowed. The impugned order is set aside and it is ordered that on furnishing of a bond according to the valuation assessed by the trial Court the vehicle shall be released on interim custody in favour of the applicant, with a direction to produce the same as and when directed by the Court.

Sd/-
(Rajendra Chandra Singh Samant)
Judge