

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 708 of 2020

Sanjay Baghel, S/o Lt. Shri. Nammu Lal Baghel, Aged About 54 Years,
R/o Gole Chowk, Rohinipuram, Raipur, District- Raipur (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, through Principal Secretary Home,
Mahanadi Bhavan, Atal Nagar, Raipur (C.G.)
2. S.H.O. Police Station, DD Nagar, Raipur, District- Raipur (C.G.)

---- Respondents

For Applicant : Mr. T.K. Jha, Advocate

For State/Respondent : Mr. B.P. Banjare, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

14/01/2021

1. Challenge in this petition is to the order dated 18.07.2020, passed by the court of learned Judicial Magistrate First Class, Raipur, District- Raipur (C.G.) (Crime No. 183/2020, P.S.- DD Nagar, Raipur), dismissing the application of the applicant for grant of interim custody of mobile phones under seizure.
2. It is submitted by learned counsel for the applicant that the order passed by the trial court is erroneous. The applicant is entitled to receive the mobile phones seized in the investigation on interim custody. Hence, the order passed by the learned court below is

liable to be set-aside.

3. Learned State counsel opposes the petition and the submission made in this respect. It is submitted that the mobile phones seized from the applicant, have been sent for forensic analysis, therefore, the mobile phones may be having some contents, which may be used in the case. Hence, the court below has not committed any error in rejecting the application.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Considered on the submissions. The reason mentioned in the impugned order is this, that the seized articles have been sent for analysis in the forensic lab, therefore, the court was of the view that it would not be proper and in the interest of justice to allow the application at that stage.
6. As, it is found that the mobile phones under seizure, were not present in custody of the police or the court and the same had been sent for forensic analysis, therefore, the application should not have been decided hastily. The application should have been kept in abeyance for sometime until the mobile phones and the report of the forensic lab, were received and after considering on the report submitted by the forensic lab, the application should have been decided by the court concerned.
7. Hence, for these reason, the present revision petition is allowed. The application for grant of interim custody of the mobile phones

under seizure, is restored. The impugned order dated 18.07.2020, passed by the court of learned Judicial Magistrate First Class, Raipur, District- Raipur (C.G.), is set-aside. The trial court is directed to consider on the application of the applicant after receipt of the mobile phones in custody of the court or the police along with the report of the forensic lab, in accordance with law, as early as possible.

8. In view of the above, the instant revision petition stands disposed of.

Sd/-
(Rajendra Chandra Singh Samant)
Judge