

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through Video Conferencing****CR.R. No. 752 of 2020**

Panchamdas Bairagi S/o Late Laxmidas Bairagi Aged About
38 Years R/o Chiknipali, Police Station Urga, District Korba
CG

---- Applicant**Versus**

State of Chhattisgarh through Station House Officer, Police
Station Darri, District Korba (CG)

----Non-applicant

For applicant : Mr. Anil Gulati, Adv.
For respondent : Mr. Devesh Verma, Govt. Adv.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****11-8-2021**

1. This criminal revision has been preferred by the applicant being aggrieved by the order dated 18-11-2021 passed by the learned Special Judge (N.D.P.S. Act), Korba (CG) in Special (NDPS) case No. 5/2019 (State of CG -v- Bhismkanat Sinha Chandram Sinha, and others) by which the application under Section 457 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.') for handing over the vehicle bearing registration No. CG 12 R 5508 (in short 'vehicle in question') to him on supurdnama has been rejected.

2. Brief facts of the case are that the applicant is a registered owner of vehicle in question. On 14-7-2019, police of PS Darri on receiving an information that some persons are carrying Ganja in the vehicle in question for selling, proceeded towards Old C.S.P. Office, Gopalpur main road and stopped the vehicle in question. Driver of said vehicle told his name as Bhismkant Sinha and his two companions told their name as Panchamdas Bairagi and Rajesh Kumar Suman. During search of the said vehicle, police seized total 2.200 kg Ganja from its dicky, costing Rs. 18,000/-. Police also seized the vehicle in question, mobile and cash of Rs. 3,000/- from accused Bhismkant. Offence under Crime No.

108/2019 under the provisions of Narcotic Drugs and Psychotropic Substances Act, (in brief 'NDPS Act') has been registered against the accused persons and the same is pending consideration as Special (NDPS) Case No. 5/2019 (State of Chhattisgarh Vs. Bhismkant Sinha Chandram Sinha and others) in the Court of Special Judge (NDPS Act), Korba.

3. The applicant filed an application for supurdnama under the provisions of Section 457 of the Cr.P.C. for custody of the vehicle in question on the ground that he is owner of the said vehicle, the said vehicle is kept in open place at police station and there is possibility that the vehicle may be damaged. Therefore, it be handed over to the applicant during pendency of the criminal case.

4. The Special Judge (NDPS Act), Korba by its impugned order dated 18-11-2019 rejected the said application on the ground that the applicant is also accused in the case, the said vehicle was being used for transportation of contraband article Ganja. Hence, this revision.

5. Learned counsel appearing for the applicant submit that the applicant is the 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, and, therefore, impugned order passed by the Special Judge be set aside and the vehicle in question may be given to him on supurdnama.

6. On the other hand, learned counsel appearing for the State submits that 2.200 kg of contraband article Ganja has been seized from the vehicle in question, and 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.

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

8. According to the applicant, the vehicle in question is lying in police station in stationary condition for a long time. The applicant is owner of the vehicle. The car is a vehicle of daily use. If it is kept in such condition for a long time, its parts are likely to be ruined. Looking to the above facts and especially the quantity of seized contraband- Ganja i.e. 2.200 kg, I feel inclined to allow this revision petition.

9. Accordingly, the impugned order dated 18-11-2019 passed by learned Special Judge (NDPS), Korba, in Special (NDPS Act) Case No. 5/2019 is set aside. The Revision petition is allowed and it is directed that vehicle in question be released and handed over to the applicant on the following conditions:-

(i) The applicant shall execute a bond in a sum of 2,00,000/- (Two lacs) with two solvent sureties of Rs. 1,00,000/- (One lac) each to the satisfaction of the Special Judge (NDPS Act), Korba.

(ii) The applicant shall not transfer or dispose of the offending vehicle to any one else.

(iii) The applicant shall also file an undertaking before the trial Court that the offending vehicle shall not be used for commission of any offence;

(iv) Before giving custody of the offending vehicle to the applicant, three coloured photographs of cabinet 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 applicant.

(v) The applicant shall produce vehicle either before trial Court or before such authorities as may be directed, on his own expenses, as and when directed.

Sd/-
N.K. Chandravanshi
Judge