

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 731 of 2020

Sachin Janghel, S/o. Shri Samay Lal Janghel, aged about 34 years, Occupation - Goods Transporter, R/o Station Road, Prakash Bhawan, Lodhipara, Raipur (Chhattisgarh).

----Applicant

Versus

State of Chhattisgarh, Through : The Station House Officer, Police Station Rajim, District Gariyaband Chhattisgarh.

---- Respondent

For Applicant	: Mr. Sunil Verma, Advocate
For State/Respondent	: Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

02/02/2021

1. Challenge in this petition is to the order dated 29.10.2020, passed by the learned Special Judge, (N.D.P.S. Act), Raipur, District -Raipur (C.G.), passed in Crime No.178/2020, dismissing the application filed under Section 457 of Cr.P.C. praying for interim custody of the vehicle under seizure.
2. It is submitted by the learned counsel appearing on behalf of the applicant, that Mahindra Bolero Pick-up vehicle bearing registration No. C.G.-04-NC-9816 was seized by the respondent in connection with transportation of illegal cannabis having weight of 270 Kg. from the accused persons. The applicant claims to be the owner of that seized vehicle. It is submitted that the seized vehicle is registered in the name of M/s. Om Cargo and the applicant is the proprietor of the same. He is not connected with the said commission of offence,

therefore, he was entitled for grant of interim custody of the said vehicle during the pendency of trial. The learned trial Court has committed error in passing the impugned order. Hence, it is prayed that revision petition be allowed.

3. State counsel opposes the petition and the submission made in this respect. It is submitted that there is nothing to suggest that the vehicle that was seized in transportation of contraband was being used without the knowledge and connivance of the applicant. There is no proof submitted that the applicant is the registered owner of the vehicle or that he is the proprietor of the M/s. Om Cargo, therefore, the Court below has not committed any error in rejecting the application. Revision petition may be dismissed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Considered on the submissions. The applicant has made claim that he is the proprietor of M/s. Om Cargo and copy of the registration certificate shows M/s. Om Cargo to be the registered owner of the seized vehicle. Some other documents have also been filed to make display that the applicant is the proprietor. The other details regarding entitlement of the applicant can be verified by the Court concerned. Further looking to this fact that the applicant is not an accused in this case and the confiscation of the vehicle seized can be initiated only after completion of trial under the provisions of Section 63 of N.D.P.S. Act. Therefore, looking to these circumstances present and on the basis of entitlement of the applicant, interim custody of the said vehicle can be given to the

applicant on appropriate direction and condition.

6. Accordingly, the revision petition is allowed. The impugned order dated 29.10.2020, passed by the learned Special Judge, (N.D.P.S. Act), Raipur, District Raipur (C.G.), passed in Crime No.178/2020, is set-aside and it is directed that the vehicle bearing No. C.G.04 NC 9816 be released in favour of the applicant by way of interim measure till the disposal of the trial. The trial Court shall make verification of the entitlement of the applicant, before handing over of the seized vehicle to the applicant. The learned trial Court is also directed to make an assessment of seized vehicle and pass an order accordingly for furnishing bonds and Supurdnama. On furnishing such bonds and Supurdnama, the vehicle in question be released in favour of the applicant with a condition that the applicant shall not transfer or change description/ features of the vehicle in question and he shall produce the said vehicle before the trial Court or confiscation authority when any such order is passed during the course of trial or confiscation proceeding.

Sd/-
(Rajendra Chandra Singh Samant)
Judge