

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 762 of 2020

- Bhagirathi Yadav, S/o Late Ramlal Yadav, Aged About 26 Years, R/o Jamnipaali, Ward No 39, Darri, Police Station- Darri, Tahsil- Katghora, District-Korba, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police-Station- Dipka, District- Korba, Chhattisgarh.

---- Respondent

For applicant	:	Mr. Akhtar Hussain, Advocate.
For Respondent/State	:	Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

14/01/2021

Heard.

1. This revision petition has been brought being aggrieved by the order dated 1.12.2020 (Annexure P-1) passed by the learned Special Judge (NDPS Act), Korba, District-Korba, Chhattisgarh dismissing the application for grant of interim custody of the vehicle under seizure.
2. It is submitted by the counsel for applicant that the order passed by the Court below is erroneous. Applicant has entitlement for the interim custody of the vehicle under seizure, as he is the registered owner of the same and, further, he was not involved in the commission of crime under the NDPS Act. The vehicles under seizure were hired by the accused persons. The applicant had handed over the possession of the vehicles to one Sheshpal Gujar and one another after executing agreements by which the vehicle of the applicant was hired on 11.9.2020. These vehicles were purchased by the applicant after

obtaining loan from finance company. The vehicles are lying idle in the premises of the police-station and loosing value day-by-day, hence, it is prayed that this revision petition be allowed and relief be granted to the applicant.

3. Learned State counsel opposes the submissions made by counsel for applicant. It is submitted that contraband of 203 kg ganja was recovered from the vehicles i.e. Maruti Suzuki Swift Desire bearing registration No.CG/12/R/4488 and vehicle Xylo D-2 Max Registration No.CG/12/AJ/3881, from the accused persons, who were found occupying the said vehicles. Therefore, it cannot be said that this applicant had no knowledge that vehicles were used for commission of such offence. Further, seized vehicles are subject to confiscation under Section 60 of NDPS Act. The learned Court below has not committed any error in passing rejection order, hence, revision petition be dismissed.
4. I have heard both the parties and perused the documents on record.
5. Considered on the submissions and the facts as presented by the counsel from both sides. There is no dispute that this applicant is the registered owner of both the vehicles namely-Maruti Suzuki Swift Desire bearing registration No.CG/12/R/4488 and vehicle Xylo D-2 Max Registration No.CG/12/AJ/3881. The agreements have been produced to show that the vehicles were given to the accused persons on hire, for which agreements were executed. Therefore, *prima facie* on this basis, the applicant can be said to have entitlement for the interim custody of the vehicles.
6. The learned Court below has passed rejection order on the basis that the seized vehicles are liable to be confiscated under Section 60 of the NDPS Act. However, Section 63 of the NDPS Act provides that any such confiscation proceeding can be initiated only after the completion of trial in which the accused may be either convicted or acquitted or discharged. Said stage has not come yet to form an opinion whether the seized vehicles are liable to be confiscated or not. Hence, I am of this view that the applicant has entitlement to receive the seized vehicle on interim custody during the pendency of trial, therefore, the

revision petition is allowed.

7. In view of above, this revision petition is allowed at the motion stage. It is ordered that the interim custody of the vehicles in question be given to the applicant on his furnishing a personal bond equivalent to the market value of the vehicles in question, to be assessed by the trial Court. The trial Court may impose such other conditions as may be found necessary in the facts and circumstances of the case.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha