

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 1552 of 2019

Khemraj Patel, S/o. Lambodar, aged about 63 years, Caste - Aghariya, R/o. Village Durgapali, Police Station Saraipali, Tahsil Basna, District Mahasamund Chhattisgarh.

----Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station Saraipali, District Mahasamund Chhattisgarh.

---- Respondent

For Applicant	: Mr. Abhishek Sharma, Advocate
For State/Respondent	: Mr. Adil Minhaj, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/03/2021

1. Heard on I.A. No. 1/19, application for condonation of delay.
2. On due consideration, the same is allowed and the delay in filing the revision petition is condoned and the revision petition is admitted for hearing.
3. At the consent of learned counsel for both the parties, the matter is heard finally.
4. Challenge in this petition is to the order dated 14.06.2019, passed by the learned Special Judge, (N.D.P.S. Act), Saraipali, District -Mahasamund (C.G.), passed in Criminal M.J.C. No. 07 of 2019, dismissing the application filed under Section 457 of Cr.P.C. praying for interim custody of the vehicle under seizure.
5. It is submitted by the learned counsel for the applicant that the

impugned order is erroneous and illegal and liable to be set-aside. The applicant is the registered owner of the seized motor cycle bearing registration No.C.G.-06/GG/9770. The applicant has been falsely implicated in this case under N.D.P.S. Act. The learned trial Court has taken into consideration the prosecution against this applicant and rejected his application without considering the entitlement of the applicant. Hence, it is prayed that revision petition be allowed and the applicant be granted relief.

6. State counsel opposes the petition and the submission made in this respect. It is submitted that the applicant is the person from whom, the contraband as well as the motor cycle has been seized. The learned Court below has not committed any error in rejecting the application for interim custody of the said vehicle. It is also submitted that the vehicle seized from this applicant is liable to be confiscation under Section 60 of the N.D.P.S. Act. Hence, this revision petition be dismissed.
7. I have heard the learned counsel for the parties and perused the documents placed on record.
8. As the claim of the applicant is based on this ground that he is the registered owner of the vehicle under seizure i.e. motor cycle bearing registration No.C.G.-06/GG/9770, which was seized from his possession along with 10 kg. of Ganja by the police.
9. Considering that the charge-sheet in this case has been filed and the trial is yet to be commenced. Although the seized motor cycle is liable to be confiscation under Section 60 of the N.D.P.S. Act, but the confiscation proceeding can be initiated only after the

conclusion of trial as provided under Section 63 of the N.D.P.S. Act. Hence, 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 with appropriate direction and condition.

10. Accordingly, the revision petition is allowed. The impugned order dated 14.06.2019, passed by the learned Special Judge, (N.D.P.S. Act), Saraipali, District Mahasamund (C.G.), passed in Criminal M.J.C. No.07/2019, is set-aside and it is directed that the vehicle bearing No. C.G.06/GG/9770 be released in favour of the applicant by way of interim measure till the disposal of the case. 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