



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION (REVN) APPLICATION NO. 62/2024

(Vishamber s/o. Laxman Karmakar Vs. State of Maharashtra)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. M.H. Siddiqui, Advocate for applicant.
 Ms. M. Kavivandan, APP for non-applicant/State.

CORAM: SANDIPKUMAR C. MORE, J.
DATED : 02/12/2024.

Heard rival submissions.

2. The applicant who is the accused No1 in NDPS Special Case No. 108/2018 has challenged the order dated 23.01.2024 in I.A. No.2/2024 passed by the learned Special Judge, Nagpur in the aforesaid case.

3. It is contended that the learned Special Judge after acquitting present applicant/ accused No.1 from the aforesaid case, refused to release silver coloured Innova Car having registration No. CG-04-HD-8504, one Nokia Mobile Phone 311 and cash of Rs. 4000/- allegedly owned by him which was seized by the concerned Police Station.

4. The learned APP submits that the learned Special Judge has already opined that the trial against absconding accused is yet to be conducted and for that, the seized Muddemal in crime needs to retain as it is. However, she fairly admitted that the aforesaid seized articles belong to the

applicant/ accused No.1.

5. It is to be noted that the learned Special Judge has refused to hand over the aforesaid articles to applicant/accused No.1 by observing that the mobile handset contains electronic record and the currency notes are part of evidence. However, it appears that the Innova car is seized in the year 2018 and since then it is a part of Muddemal. It can be understood, if the mobile handset and currency notes are retained for the purpose of further trial in future against the absconding accused, but the condition of Innova car which is lying idle in the concerned Police Station since 2018 will be deteriorated further. There is no dispute that the same is owned by the applicant/accused No.1 who is already acquitted by the learned Special Judge from the aforesaid trial. Therefore, considering this fact, the impugned order can be set aside only to the extent of refusal of release of the Innova car as aforesaid. The learned counsel for the applicant has also agreed for the same.

6. In the result, the impugned order dated 23.01.2024 is hereby set aside only to the extent of refusal in releasing the silver colored Innova car bearing registration No. CG-04-HD-8504. It is directed that the concerned PSO of Kalamna Police Station shall hand over the possession of the aforesaid Innova car to the present applicant under Supratnama by executing indemnity bond for Rs. 5 lakhs within a week on following conditions:-

(I) The applicant shall not transfer/sell the aforesaid Innova car and he shall not change the

current appearance of the same.

(II) The applicant shall produce the said Innova car for the inspection of Investigating Officer or the concerned Court as and when required.

7. The criminal application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

Gohane