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AKHILESH BEOHAR Digitally signed by AKHILESH BEOHAR Date: 2026.10.28 17:00:50 +0530

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 518 of 2026

- Ganesh Banchhor, S/o Kanhu Banchhor, aged about 35 Years, R/o Dharwadhi, Police Station Lefipara, District - Sundargarh (Orissa)

...Appellant

versus

- The State of Chhattisgarh, Through Station House Officer - Jaynagar, District - Surajpur, Chhattisgarh. **... Respondent**

For Appellant	:	Mr. Sajal Kumar Gupta, Advocate.
For State	:	Mr. Ujjawal Choubey, Panel Lawyer.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

27/10/2026

1. This appeal is directed against the impugned order dated 18.06.2025 to the extent that, while deciding the disposal of the vehicle, an order for confiscation of motorcycle bearing No. OD16-F-5793 (hereinafter referred to as the 'vehicle') under Section 60 of the NDPS Act has been erroneously passed, even after the acquittal of the appellant from the charge under Section 20(b)(ii)(B) of the NDPS Act, 1985, by the Special Judge (N.D.P.S. Act), Surajpur, District Surajpur, C.G. (hereinafter referred to as the 'Special Court') in Special Criminal Case No.33/2020.
2. Case of the prosecution, in brief, is that on 06.11.2020, appellant and co-accused- Harsha Naik were caught by the police of Police Station Jaynagar, District Surajpur, C.G., while transporting a total of 3 kg and

90 grams of *ganja* in the vehicle. Thereafter, an FIR was lodged against them, and the motorcycle/vehicle and the alleged contraband substance were seized. After completion of investigation, charge sheet was filed against the appellant and co-accused- Harsha Naik for the offence under Section 20(b)(ii)(B) of the NDPS Act.

3. The learned Special Court, after completion of the trial, acquitted the appellant and the co-accused of the aforesaid charge but directed confiscation of the aforesaid vehicle under Section 60 of the NDPS Act, 1985. Hence, this appeal.

4. Learned counsel for the appellant submits that the impugned order dated 18.06.2025, to the extent that it orders confiscation of the vehicle despite the acquittal of the appellant, is bad in law, perverse and arbitrary. He further submits that the learned Special Court failed to appreciate that, when the prosecution has failed to prove the seizure of the alleged contraband substance, the provisions of Section 60(3) of the NDPS Act, 1985, would not be applicable. The order of acquittal removes the very basis for applying Section 60(3). He further submits that confiscation of the vehicle despite the acquittal would amount to an abuse of the process of law and a violation of the appellant's fundamental rights. After the acquittal, it was unnecessary to confiscate the vehicle and initiate fresh proceedings. He also submits that the learned Special Court failed to consider Section 452 of the Cr.P.C. and did not pass any order for disposal of the property despite acquitting the appellant. The direction for confiscation of the appellant's vehicle amounts to an abuse of the process of law. He also submits that, from the order passed by the learned Special Court, it appears that the prosecution failed to prove its case beyond reasonable doubt and that

the seizure of the said vehicle from the possession of the appellant was not established. Therefore, the learned Special Court ought not to have ordered confiscation of the vehicle after the acquittal. The order of confiscation is illegal and erroneous and is liable to be set aside.

5. On the other hand, learned counsel for the State supports the impugned order and submits that it was not a clear-cut acquittal; rather, the appellant and the co-accused were acquitted by giving them the benefit of doubt. Therefore, the order of confiscation passed by the learned Special Court does not call for any interference by this Court. Hence, the appeal may be dismissed.

6. Heard learned counsel for the parties and perused the documents annexed with the petition carefully.

7. It transpires from the record that the appellant, who had faced trial along with the co-accused- Harsha Naik, has been acquitted by the Special Court by the impugned judgment, and the Special Court, while acquitting the appellant, ordered the registration of a miscellaneous case for confiscation of the vehicle of the appellant, which was stated to have been used in the alleged offence in question and on 18.06.2025, the Special Court directed that the vehicle in question be confiscated, and the same has been challenged before this Court in the present appeal.

8. The submission of learned counsel for the appellant that, as he has been acquitted, the order passed by the learned Special Court for confiscation of the vehicle in question is not sustainable in the eyes of law.

9. Considering the fact that the appellant has already been acquitted by the Special Court and no appeal has been filed by the

State/respondent against the judgment of acquittal of the appellant, therefore, no useful purpose would be served if the vehicle of which the appellant is the registered owner be confiscated. Hence, the impugned order dated 18.06.2025, with respect to the confiscation of the vehicle bearing registration No.OD16-F-5793, is hereby set aside. Since appellant is the registered owner of the motorcycle bearing registration No. OD16-F-5793, therefore, it is directed that the aforesaid motorcycle be released in his favour.

10. Accordingly, the criminal appeal is **allowed** to the extent indicated hereinabove.

Sd/-

(Naresh Kumar Chandravanshi)
Judge

Akhilesh