



2025:AHC:197822

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 2901 of 2022

Somveer

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Harshit Gupta, Ramanand Gupta
Counsel for Opposite Party(s)	:	G.A.

Court No. - 92

HON'BLE CHAWAN PRAKASH, J.

1. Heard learned counsel for the revisionist, learned A.G.A. for the State as well as learned counsel for the opposite party no. 2 and perused the record.

2. This criminal revision has been preferred against the order dated 05.03.2022 passed by the Additional Sessions Judge, Court No. 12 (Special Judge N.D.P.S. Act, 1985) in Crime No. 23 of 2022, under Section 8/15 N.D.P.S. Act, Police Station Bilsa, District Budaun whereby learned trial court rejected the release application filed by the revisionist.

3. It is submitted by the learned counsel for the revisionist that on 17.01.2022 at 6.30 P.M., one Ajay was found in possession of 3 kg. illegal doda powder wrapped in a polythene bag and also a country-made revolver and Suraj was found in possession of 3.3 kg. illegal doda powder. A first information report was registered as case Crime No. 23 of 2022, under Section 8/15 N.D.P.S. Act, Police Station Bilsa, District Budaun and after investigation, charge sheet was submitted against accused Ajay. It is further submitted that the revisionist is not named in the first information report. It is next submitted that the revisionist is the registered owner of the vehicle No. UK-04P6694 Honda Amaze having its original papers. His vehicle has been falsely implicated by the police in the present case. It is further submitted that the revisionist filed an application for release of his vehicle before the trial court but the said application was dismissed by the trial court vide order dated 05.03.2022. It is also submitted that the vehicle of the revisionist is detained in police station without any reason and it is being

damaged. The vehicle is lying in the police custody since 17.01.2022. It is further submitted that detention of the vehicle for a long time at the police station is likely to diminish its value and ultimately the vehicle may become junk. It is further submitted that the learned Special Judge N.D.P.S. Act passed an illegal order without following the dictum of law determined by the Hon'ble Apex Court pertaining to the matters involving issues regarding release of a vehicle and totally ignored and discarded the legal norms applicable to the case in hand.

4. It is further submitted that the learned Special Judge N.D.P.S. Act, Budaun has wrongly exercised the power of the N.D.P.S. Act ignoring the provisions of Section 60 of the N.D.P.S. Act, according to which, there must be involvement of the vehicle owner in the crime but in the present case, vehicle owner is innocent and police has wrongly seized the vehicle of the revisionist, which is not a case property since no recovery has been made from the vehicle in question.

5. Placing reliance on the decision of the Hon'ble Apex Court in ***Sunderbhai Ambalal Desai Vs. State of Gujarat, 2003 (1) JIC 615 (SC)***, it is submitted that the Hon'ble Apex Court has held that "In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles." It is lastly submitted that revisionist is willing to fulfill all conditions imposed upon him for release of the vehicle in question.

6. Per contra, learned A.G.A. as well as learned counsel for the opposite party no. 2 could not dispute the fact that the revisionist is the registered owner of the vehicle in question and the alleged vehicle was found involved in the crime. He submitted that the learned Special Judge, N.D.P.S. Act while rejecting the release application has not committed any illegality and impugned order does not suffer from any infirmity or illegality warranting interference by this Court.

7. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record carefully.

8. As per the present case, on 17.01.2022 at 6.30 P.M., the informant Rajesh

Kumar alongwith other police personnel reached at Girdharpur crossing Bisauli, District Budaun and saw that a Honda Car without number plate was parked on the roadside on Girdharpur Road and two persons were standing outside the car having plastic bags with them. On seeing the police jeep, they suddenly started running. When the police caught them and upon asking them, one person identified himself as Ajay and other person as Suraj. In personal search of Ajay, 3 kg. illegal doda powder wrapped in a polythene bag and also a country-made revolver were found from his possession. On personal search of Suraj, 3.3 kg. illegal doda powder was found from his possession. A first information report was registered as case Crime No. 23 of 2022, under Section 8/15 N.D.P.S. Act, Police Station Bilsa, District Budaun and after investigation, charge sheet was submitted against accused Ajay. During trial, accused Ajay was granted bail by the trial court vide order dated 29.01.2022.

9. As per the first information report, the revisionist is not involved in the present case. On the other words, it can be said that the revisionist is not named in the F.I.R. He is owner of the alleged vehicle. He has filed an application for release of the vehicle in question but the said application has been rejected vide order dated 05.03.2022.

10. Section 60 of the N.D.P.S. Act is reproduced as below:-

60. Liability of illicit drugs, substances, plants, articles and conveyances to confiscation.

(1) Whenever any offence punishable under this Act has been committed, the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.

(2) Any narcotic drug or psychotropic substance [or controlled substances] lawfully produced, imported inter-State, exported inter-State, imported into India, transported, manufactured, possessed, used, purchased or sold along with, or in addition to, any narcotic drug or psychotropic substance [or controlled substances] which is liable to confiscation under sub-section (1) and the receptacles, packages and coverings in which any narcotic drug or psychotropic substance [or controlled substances], materials, apparatus or utensils liable to confiscation under sub-section (1) is found, and the other

contents, if any, of such receptacles or packages shall likewise be liable to confiscation.

(3) Any animal or conveyance used in carrying any narcotic drug or psychotropic substance [or controlled substances], or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.

11. The Hon'ble Apex Court has passed order for releasing of the vehicle in N.D.P.S. cases. Different Courts have also taken divergent views with regard to interim release of conveyances during the pendency of the trial in NDPS cases. In ***General Insurance Council & Ors. vs. State of Andhra Pradesh, (2010) 6 SCC 768; Gurbinder Singh @ Shinder vs. State of Punjab, 2016 SCC OnLine P&H 16026; Tej Singh vs. State of Haryana, 2020 SCC OnLine P&H 4679; Shams Tavrej vs. Union of India, 2023 SCC OnLine All 1154; Manakram vs. State of Madhya Pradesh, Crl. Rev. 2421/2021; Nirmal Singh vs. State of Punjab, CRR- 1208-2018 (O&M); Kawal Jeet Kaur vs. State of Karnataka, 2024:KHCK: 5691 and Bhagirath vs. State of Rajasthan, 2024: RJ-JD:36868***, the Courts have directed release of the vehicles in the interim in N.D.P.S. cases.

12. The Hon'ble Apex Court in the case of ***Bishwajit Dey Vs. The State of Assam*** passed in Criminal Appeal No. 87 of 2025 (Arising out of Special Leave Petition (Crl.) No. 13370 of 2024) has held that the vehicle can be released in favour of the owner if it is not found involved in the alleged crime.

13. In the present case, the revisionist is not named in the F.I.R. as an accused. No charge sheet has been filed against him. Hence, it is a fit case wherein the vehicle in question is liable to be released.

14. Consequently, the present criminal revision is **allowed** and the impugned order dated 05.03.2022 passed by the Additional Sessions Judge, Court No. 12 (Special Judge N.D.P.S. Act, 1985) in Crime No. 23 of 2022, under Section 8/15 N.D.P.S. Act, Police Station Bilsi, District Budaun is set aside. The learned trial court is directed to release the vehicle in question on superdari on furnishing a personal bond and two sureties each in the like

amount to the satisfaction of the court concerned, after preparing a video and still photographs of the vehicle and after obtaining all information/documents necessary for identification of the vehicle, which shall be authenticated by the Investigating Officer, owner of the vehicle and accused by signing the same. Further, the revisionist shall not sell or part with the ownership of the vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the vehicle within one week of being so directed and/or pay the value of the vehicle (determined according to Income Tax law on the date of its release), if so ultimately directed by the Court.

November 10, 2025
Rmk.

(Chawan Prakash,J.)