

Rajasthan High Court - Jodhpur

Kamlesh vs State on 16 May, 2018

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR S.B. Criminal Revision No. 409 / 2018 Kamlesh Son of Sohan Lal, By Caste Gurjar, Resident of Madra, Kankroli Police Station, District Rajsamand.

----Petitioner Versus State of Rajasthan

----Respondent _____ For
Petitioner(s) : Mr. J.V.S. Deora For Respondent(s) : Mr. L.R. Upadhyay, PP.
_____ HON'BLE MR.

JUSTICE P.K. LOHRA Order 16/05/2018 Petitioner - Kamlesh facing trial for offence under Section 8/15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') has laid this revision petition under Section 397 read with Section 401 Cr.P.C. to assail impugned order dated 14.03.2018, passed by Special Judge, N.D.P.S. Cases No.1, Chittorgarh (for short, 'learned trial Court'), whereby learned trial Court has rejected his application under Section 457 Cr.P.C.

At the threshold, an application was moved by petitioner before learned trial Court under Section 457 Cr.P.C for release of vehicle Maruti Alto K-10 having Registration No.RJ-30-CA-6558 on Supardginama, which was seized by the Police for allegedly carrying 37 Kg poppy husk/straw, which is below commercial quantity. Learned trial Court declined the prayer of the petitioner precisely on the ground that petitioner was registered owner of (2 of 3) [CRLR-409/2018] the vehicle in question transporting the contraband without any permit or licence. Besides that the application did not find favour of the learned trial Court for the reason that after conviction of the petitioner the vehicle is liable for confiscation under Sec. 60(3) of the NDPS Act entailing its rejection by order dated 14.03.2018. Being aggrieved by the same, petitioner preferred this criminal revision.

I have heard learned counsel for the petitioner and learned Public Prosecutor for the State.

Learned counsel for the petitioner, in support of his arguments, has placed reliance on a decision of the co-ordinate Bench of this Court rendered at Jaipur Bench in Prakash Chand Vs. State of Rajasthan reported in 2010(1) Cr.L.R.(Raj.) 507. In the aforesaid judgment, the vehicle was seized from the accused for carrying contraband of small quantity just above the commercial quantity. It is in that background, the Court has acceded to the prayer of the incumbent and recorded its finding that solely for the reason that the vehicle is likely to be confiscated after trial, conditional release of the vehicle on "Supardagi" cannot be denied and interim custody of the vehicle can be granted to the incumbent on certain conditions. The Court has laid down following conditions for release of the vehicle:-

"In view of the aforesaid, I am inclined to accept the petition. Accordingly, the order dated 20.01.2010 is set aside and the miscellaneous petition is accepted. The motor vehicle is ordered to be released on "Supurdagi" on following conditions:-

(a) the petitioner furnishes a personal bond in the sum of Rs.3,00,000/- each with two sureties of (3 of 3) [CRLR-409/2018] Rs.1,50,000/- each to the satisfaction of the trial Court undertaking to produce the car in the Court as and when required to do so.

(b) the petitioner shall get the car photographed showing the registration number as well as the chassis number. Such photograph shall be taken in the presence of the Investigating Officer, to be kept on the file of the case.

(C) the personal bonds of the petitioner and bonds of sureties shall carry the photographs of the petitioner and his sureties and the bond of sureties shall further carry the photographs of perhaps identifying them before the Court which is with full residential particulars of the sureties and the persons identifying them.

(d) the petitioner shall undertake not to transfer the ownership of the car and not to lease it to anyone and not to make or allow any changes in it to be made so as to make unidentifiable.

(e) the petitioner will not allow the car No.RJ- 02/TA-0305 to be used for any antisocial activities including for the purpose of carrying narcotics which may constitute offence under the NDPS Act."

In view of the judgment in Prakash Chand (supra), the instant revision petition is allowed and impugned order is quashed and set aside and the vehicle in question Maruti Alto K-10 having Registration No.RJ-30-CA-6558 is ordered to be released subject to the aforementioned conditions and quantum of "Supardgi" determined by learned trial Court.

(P.K. LOHRA)J.

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