

Hari Ram Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Jan-30-2002

Reported in : 2002(2)WLN686

Judge : D.N. Joshi, J.

Appeal No. : S.B. Cri. Misc. Petition No. 48 of 2002

Appellant : Hari Ram

Respondent : The State of Rajasthan

Advocate for Pet/Ap. : Mr. Mangilal Bishnoi

Judgement :

D.N. Joshi, J.

1. This criminal miscellaneous petition is directed against the order dated 15.10.2001 passed by Special Judge, N.D.P.S. Cases, Jodhpur, by which he has refused to release the truck No. RNN 6212 on the ground that the same has been seized in connection with the offence under NDPS Act.

2. Notice was given to the Public Prosecutor.

3. Heard Mr. Mangilal Bishnoi, learned Counsel for the petitioner and Mrs. Chandra Lekha, Public Prosecutor.

4. It was argued by the learned Counsel for the petitioner that it cannot be a ground for refusing to deliver the vehicle, simply because the same has been seized in connection with the offence under the NDPS Act, which is liable to be confiscated. He has placed reliance on the following judgments in support of his contention:

(1) Balmukund v. State of Rajasthan 1994 Cr. L.R. (Raj.) P. 4

(2) Khema v. State of Rajasthan 2000 Cr.L.J. P. 2079

(3) Balvinder Singh v. State Cr.L.R. (Raj.) 1998 P. 47

(4) Vijay Kumar v. The State of Raj. 2001 Cr.L.R. (Raj.) P. 273. All the judgments cited above are related to seizure of vehicle in connection with the offence under the NDPS Act.

5. It was further argued that confiscation of the vehicle can be decided after the conclusion of the trial and no useful purpose will be served by keeping the vehicle in the police station.

6. The learned Public Prosecutor opposed the petition on the ground that a huge quantity of opium has been recovered from the vehicle and if the vehicle is released at this stage, it would frustrate the purpose of the NDPS Act.

7. I have considered the rival contentions. It is not in dispute that the truck in question has not been claimed by any other person. It has been claimed by the petitioner through his power of attorney holder Hari Ram. Thus, in view of the decisions relied above by the learned Counsel, the order of the learned Special Judge denying the interim custody to the petitioner is not sustainable and the same deserves to be set aside and is hereby set aside.

8. The petition is therefore, allowed. It is directed that the truck No. RNN 6212 shall be delivered to the petitioner on Superdginama on his producing the original registration certificate and permit and on satisfying the following conditions.

(1) He furnishes a personal bond in the sum of Rs. 1,00,000/- with two sureties of Rs. 50,000/- each to the satisfaction of the trial court undertaking to produce the

truck in the Court as and when required to do so.

(2) He shall get the truck 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.

(3) The personal bond 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 persons identifying them before the Court which is with full residential particulars of the sureties and the persons identifying them.

(4) The petitioner shall undertake not to transfer the ownership of the truck and not to lease it to any one and not to make or allow any changes in it to be made so as to make identifiable.

(5) He will not allow the truck No. RNN 6212 to be used for any anti-social activities including for the purpose of carrying narcotics which may constitute offender under the NDPS Act.

It is further directed on the request of the learned Counsel for the petitioner that original registration certificate and permit be returned to the petitioner after keeping a photocopy of the same on the record.