



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 1259 of 2021

- Vishal Vishwakarma S/o Ashok Vishwakarma Aged About 32 Years R/o Shankarghat Ambikapur Tahsil Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Appellant

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station Ambikapur District - Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

<u>02/03/2023</u>	Mr. Nishi Kant Sinha, Advocate for the appellant. Mr. Himanshu Kumar Sharma, Panel Lawyer for the State. Heard on I.A. No.1 of 2023, which is an application under Section 451 of CRPC for interim custody of seized articles. The present appellant stands convicted for the offence punishable under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act and has been sentenced to undergo rigorous imprisonment for 10 years and fine of Rs.1,00,000 with default stipulation. The appeal was admitted for hearing long back on 27.10.2021 and the appellant has also subsequently been enlarged on bail vide order dated 06.09.2022. Now the appellant has filed an application under Section 451 of the CRPC for the interim custody of the vehicle which was seized at the time of commission of the offence for which



the appellant has been convicted for and also a mobile phone which was seized by him on the date of incident.

Learned counsel for the appellant submits that the vehicle involved in the instant case was a Motor Cycle TVS Star City bearing registration No. CG 15 DA 8460 and one Mobile Phone OPPO A83 having IMEI No. 867614036672814, which was seized by the prosecution agency on the date of incident i.e. 31.07.2020 is lying with the respondents unused and unless it is permitted to be used the vehicle by the time the appeal is decided would get decade and would be of no use and so also mobile phone also would become obsolete and would not be usable any further. Learned counsel for the appellant further submits that he has all the documents to show the two properties being owned by him and that he is ready to abide any of the conditions to be imposed by this Court for the purpose of releasing of the said vehicle as also for the releasing of the mobile.

The State counsel on the other hand opposing the application submits that there is all likelihood of misuse of the mobile phone as also the misuse of the vehicle in case if the same are released to the appellant today as the appellant stands convicted for the offence under Section 21(C) of the NDPS Act. The appellant along with the application under Section 451 has also produced the receipt in respect of the ownership of the said two properties being in the name of the appellant herein.

Having heard the contentions put forth on either side and on perusal of record, particularly taking note of the fact that the appeal is of the year 2021 with no likelihood of an early final hearing, further that the two properties i.e. the vehicle belonging to appellant bearing registration No. CG 15 DA 8460 as also the Mobile Phone OPPO A83 having IMEI No. 867614036672814 is lying with the police authorities



from the time of the alleged incident that took place on 31.07.2020. Taking into fact consideration the decision of the Hon'ble Supreme Court in the case of “**Sunderbhai Ambalal Desai and C.M. Mudaliar Vs. State of Gujarat**” (2002) 10 SCC 283 and also the series of decisions that have been followed thereafter by practically all the High Courts of this country, this Court is of the opinion that no fruitful purpose would be served if the vehicle is left in the custody of the prosecution agency till the appeal is finally decided, of which there is no certainty as of now in the near future. Under the circumstances, a strong case for allowing the said application I.A. No.1 has been made out.

It is ordered that the appellant may be released of the Motor Cycle TVS Star City bearing registration No. CG 15 DA 8460 and also the Mobile Phone OPPO A83 having IMEI No. 867614036672814 upon his furnishing necessary sureties to the value of the said property to the satisfaction of the trial Court with a condition that the appellant shall not under any circumstances alienate the title of the property, nor would he sell the said property, nor would the appellant in any manner temper with the contents of the mobile, nor would he be permitted to change the colour of the vehicle and the appellant shall further give an undertaking to the trial Court that as and when required, the appellant shall make available the two properties before the prosecution agency or the Court as may be required. Accordingly, I.A. No.1 stands allowed and disposed of.

List this case in due course.

**Sd/-
(P. Sam Koshy)
JUDGE**