

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WP227 No. 485 of 2021**

- Sabyasachi Meher, S/o Shri Narusingha Mehar Aged About 29 Years  
R/o Village Post And Block Belpara, Balangir Odisha Temporary  
Address Punjab Oil Mill Gali, Bhaesnath Road, M. I. Business Park,  
Raipur District and Tahsil Raipur Chhattisgarh

**---- Petitioner**

**Versus**

1. State of Chhattisgarh Through The Collector, Mahasamund District  
Mahasamund Chhattisgarh
2. Assistant Commissioner (Excise) Mahasamund, District Mahasamund  
Chhattisgarh

**---- Respondents**

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For Petitioner	:	Mr. Vivek Mishra, Advocate.
For State	:	Mr. Aman Kesharwani, PL.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**29/10/2021**

Heard.

1. The present petition has been brought under Article 227 of the Constitution of India being aggrieved by the impugned order dated 5.8.2021 passed by Collector, Mahasamund in Case No.87/2021 dismissing the application of the petitioner for granting interim custody of the vehicle seized.
2. In Crime No.76/2020 registered in Police-station-Khallari the pick-up vehicle bearing registration No.OD 03 K 2652 was seized from the possession of the accused Subal Kalsaid in connection with transportation of illicit liquor. The proceeding has been initiated before

District Excise Officer/Collector for confiscation of the seized vehicle, therefore, the petitioner filed the application for interim custody of the vehicle which has been dismissed by the impugned order.

3. It is submitted by the counsel for petitioner that he is the registered owner of that vehicle which was hired by the accused Subal Kalsai regarding which an agreement was executed on 1<sup>st</sup> April, 2021, therefore, the petitioner was not in direct possession of the vehicle and he was unaware of the illegal use made of the some vehicle, hence, the offence if any that has been committed by the accused Subal Kalsai that has been committed without the knowledge and connivance of this applicant, hence, the petitioner was entitled for grant of interim custody, the impugned order is unsustainable.
4. Learned State counsel opposes the submissions made in this respect. It is submitted that the provisions under the Chhattisgarh Excise Act, 1915 provide for confiscation of such vehicle which has been seized in connection with transportation of illicit liquor. The explanation given by the petitioner is required to be proved in the confiscation proceeding before that he has no entitlement for interim custody.
5. Considered on submissions.
6. Sub-section 2 of Section 47(A) empowers the Collector to pass order of interim nature regarding custody and disposal etc. of the property subject to confiscation. In the present case the inquiry in the confiscation proceeding is yet to be completed and the petitioner is presenting a case on the ground that he is not an accused in the criminal case and also that the vehicle was let out to the accused on hire. Therefore, I am of this view that it is a fit case in which interim

custody should have been granted to the petitioner.

7. In view of above, this petition is allowed at the motion stage. It is ordered that the interim custody of the vehicle in question be given to the petitioner until the pendency of the confiscation case on his furnishing a personal bond equivalent to the market value of the vehicle in question, to be assessed by the trial Court or authority concerned. The trial Court or authority concerned may impose such other conditions as may be found necessary in the facts and circumstances of the case.

Sd/-

**(Rajendra Chandra Singh Samant)**

Judge

Nisha