

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

(SB: Hon'ble Mr. Justice Alok Verma)

MCRC No.1563/2015

Mohammad Mukhtyar

Vs.

State of MP

Shri Vaibhav Dube, learned counsel for the applicant.
Smt. Mamta Shandilya, learned counsel for the respondent/State.

ORDER

(Passed on this 1st day of July, 2015)

This application under section 482 of Cr.P.C. is filed challenging the order passed by learned Additional Sessions Judge, Sardarpur, District – Dhar in Civil Revision No.14/2015 dated 05.02.2015 which was in its turn, directed against the order passed by learned Additional Chief Judicial Magistrate, Sardarpur in Criminal Case No.1434/2014 dated 11.12.2014.

The facts giving rise to this application are that a truck bearing registration No.MP-06-HC-0486 was seized by Police Station – Kukshi, District – Dhar allegedly carrying 1600 cartoons of country made foreign liquor. The present applicant filed an application before learned Magistrate stating therein that it was only a case of violation of permit conditions. No intimation had

been received by the Court of Magistrate for confiscation and, therefore, under the provisions of section 47 and 47-D of MP Excise Act, the Magistrate has power to grant interim custody of the vehicle. Learned Magistrate was of view that huge quantity of liquor was being transported through the vehicle. The prosecution had also proceeded to take necessary steps for confiscation of the vehicle and in this view, learned Magistrate dismissed the application. The order passed by learned Magistrate was confirmed by learned Additional Sessions Judge in revision.

Aggrieved by the orders of Courts below, this application is filed on the ground that no intimation for confiscation of vehicle was received from the District Magistrate to the concerned Judicial Magistrate for confiscation of vehicle and till such intimation is received, the Court of the Magistrate had power to grant interim custody of the vehicle. After going through the order of courts below, it is apparent that the courts below have not specifically mentioned in the orders that the Court of Additional Chief Judicial Magistrate received an intimation for confiscation of the vehicle and accordingly, till such intimation is received, the Magistrate has power to grant interim custody of the vehicle. The second ground for refusal of interim custody appears to be that courts below were of the opinion that huge quantity of liquor was being transported by vehicle. However, it appears that liquor was not contraband liquor

but it was licenced liquor. Only there was some violation of conditions of permit.

In this view of the matter, in considered opinion of this Court, the Courts below erred in not granting interim custody of the vehicle. Accordingly, this application is allowed. The orders passed by Courts below are set aside and the application filed by the applicant for interim custody is allowed. It is directed that if the applicant furnishes supurdaginama for Rs.10 lacs incorporating a condition that he would not sale or dispose of the vehicle till disposal of the case and produce the vehicle whenever he is asked to do so and also in case confiscation proceedings are started by the District Magistrate, he would produce the vehicle before concerned District Magistrate whenever is is asked to do so, the vehicle may be granted to the present applicant or if he is not registered owner, to the registered owner of the vehicle.

With these observations and directions, the application under section 482 of Cr.P.C. is disposed of.

C.c as per rules.

(Alok Verma)
Judge

