

carrying 2.600 Grams of cannabis in the seized motor cycle, he was apprehended and the contraband article, along with the vehicle, was seized by the Excise Department. This case has been registered under section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called “NDPS Act”). Under section 60 of the NDPS Act, the seized property is liable to confiscation and the property in question can be confiscated by the trial Court. On the other hand, this Court can pass the order for interim release or confiscation of the seized vehicle that is used in carrying the contraband article. In this case, the owner of the seized vehicle is none else than the accused himself. It is true that the vehicle will lose its intrinsic value being exposed to open air, but that cannot be a ground to release the vehicle in favour of the accused, who is its owner as averred in the petition.

3. Learned counsel appearing for the petitioner has relied upon the decision reported in **2003 (Supp.) OLR - 860 (*Balakrushna Dash* Vs. *State of Orissa*)**, wherein His Lordship has been pleased to release the vehicle in favour of the petitioner under section 457 of the Code of Criminal Procedure with certain conditions.

4. With due respect to the said decision, I find that the owner of the seized vehicle was not the accused and the

accused in that case was the driver of the vehicle; but in the present case, the accused-petitioner himself is the driver as well as owner of the seized vehicle. So, the facts and circumstances in the decision cited by learned counsel for the petitioner are not applicable to that of the present case. When cannabis was being carried by the accused in the seized vehicle, the release of the vehicle in favour of the petitioner will encourage him to commit further offence of similar nature. Moreover, release of the vehicle under the NDPS Act will no doubt perpetuate the commission of the crime by drug paddlers. When the accused himself was carrying the contraband article in the seized vehicle and it was seized from his possession, the vehicle must be kept for disposal till conclusion of the trial. On the other hand, the petition for disposal of the property under section 457 of the Code of Criminal Procedure cannot be allowed pending trial of the case. Hence ordered :

O R D E R

The petition under section 457 of the Code of Criminal Procedure being devoid of merit stands rejected. The Crl. Misc. Case is disposed of accordingly.

Sessions Judge, Khurda

at Bhubaneswar.

05.01.2015.

Dictated & Corrected by me.

Sessions Judge, Khurda

at Bhubaneswar.

05.01.2015.