

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No.136 of 2016**

- Mohd. Sajid S/o Mohd. Saqur Aged About 27 Years R/o Pathan Pura, Duni Basti, Murtijapur, P.S. Murtijapur, Akola, Civil & Rev. District Akola, Maharashtra.

---- **Petitioner****Versus**

- State Of Chhattisgarh Through Police Station Lohattar, Civil & Rev. District Uttar Bastar Kanker, Chhattisgarh.

---- **Respondent**

Shri Punit Ruparel, counsel for the petitioner.
Shri Lav Sharma, Panel Lawyer for the State.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****02.02.2016.**

At the outset, counsel for the petitioner submits that he has filed an application under Section 451 of the Code of Criminal Procedure, 1973 (for short 'the Code') for interim custody of the seized truck till the pendency of the trial in Criminal Case No.1285.14. But the Court below has not appreciated the doctrine of scope of Section 451 of the Code and merely disposed of the petition in the light of the Section 207 of the Motor Vehicles Act, 1988. He prayed that the Court below may be directed to dispose of the petition under the provision of Section 451 of the Code and the instant petition may be disposed of alongwith said direction.

2. On due consideration, on perusal of the order sheet dated 10.02.2015, it appears that the Court below had not passed any speaking order in the doctrine of interim custody of the said truck during the pendency of the criminal case No.1285/14 pending

before the trial Court. Merely appreciating the provisions under Section 207 (2) of the Motor Vehicles Act the order is passed and the same cannot be termed as a speaking order adjudicating the entire facts and provisions of law attracted in the matter.

3. Consequently, instant petition is disposed of. The court below is directed to rehear the application already filed by the petitioner under Section 451 of the Code and after hearing both the parties, pass the order afresh without being influenced by earlier order dated 10.12.15, as early as possible, preferably within a period of 30 days from the date of receipt of a copy of this order or after presentation of this order by the petitioner.

4. Petition disposed of. No order as to cost.

5. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE