

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRIMINAL MISC. PETITION NO. 496 OF 2016

Rupesh Goyal S/o Late Shri Vidyasagar Goyal, aged about 40 years, R/o Ward No.11, Bagbahra, PS & Tehsil Bagbahra, District Mahasamund (CG).

---- Applicant

Versus

State of Chhattisgarh through the Police Station, Bagbahara, District Mahasamund (CG).

---- Respondent

For Applicant	:	Shri Kuldeep Singh, Advocate.
For Respondent/State	:	Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/08/2016

1. The present petition has been preferred seeking for release of the bank accounts of the applicant as well as his relatives. In addition, prayer is also made for the release of Kerosene Oil and Tanker along with a permission to open his office and godown.
2. The trial court as well as the revisional court have rejected the above prayer of the applicant vide orders dated 05.01.2016 and 17.03.2016 respectively.
3. Learned counsel appearing for the applicant relying upon the judgment of Supreme Court in case of Sunderbhai Ambalal Desai Vs. State of Gujarat, reported in 2002(10)SCC 283, submits that non releasing of the articles which have been seized by the prosecution in the instant case would amount to violation of the guidelines laid

down by the Supreme Court in the said case. He further submits that in the instant case trial is going on at a very slow pace, and therefore, at this juncture, if the articles seized are not released then the petitioner shall put to irreparable loss. Further, the articles which are lying in the open place shall also get decayed and destroyed.

4. The State counsel however opposing the petition submits that the nature of allegations against the applicant is quite serious and that in case if these articles are released then there is all possibility that the applicant shall sell the articles in the open market particularly the Kerosene Oil which was found to be illegally being sold by the petitioner. Further, there is all possibility that the applicant can misuse the Bank Account by operating the same which would be detrimental to the interest of the prosecution.
5. Having considered the rival contentions put forth on either side if we take into consideration the judgment cited by the applicant, it would clearly reflect that the said judgment was passed in the context where the articles seized belonged to the complainant from whose house the same were robbed, stolen or by way of decoity has been taken, whereas, in the instant case, the allegation is that the seized articles particularly Kerosene Oil were being illegally sold by the applicant for his personal gains in the open market and was making profit from the same which otherwise was to be sold through the Public Distribution System. This was the reason due to which the Bank accounts including the passbooks of the applicant were seized.

6. In the given facts and circumstances of the case, the judgment cited and relied upon by the applicant is therefore, distinguishable from the facts of the present case. The nature of the articles seized also is not one which would be required by the applicant for the day to day transaction of his routine business, and therefore, in the opinion of this court, no illegality or infirmity has been committed by the court below while disallowing the application for release of the seized articles.
7. For the foregoing reasons, the petition being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge