

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 1132 of 2016**

Tularam Disuja S/o Shri Ghasiya Ram Disuja, aged about 43 years,
R/o village Karhi, Tahsil Jaijaipur, Police Station Birra, District Janjgir-
Champa, Chhattisgarh.

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

State of Chhattisgarh through Station House Officer, Police Station
Kharsia, District Raigarh, Chhattisgarh.

---- **Respondent**

For Petitioner	:	Shri Ajeet Ku. Yadav, Advocate
For Respondent/State	:	Shri S. R. J. Jaiswal, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14.12.2016**

The present petition under Section 482 of CrPC has been preferred for releasing of the Tata Pick-up bearing registration No. CG 04 ZD 9568 on supurdnama. The said vehicle was seized by the Police Authorities, Kharsia in connection with Crime No. 233/2016 which was alleged to have been involved in illegally carrying cattle from one place to another.

2. The present petitioner had moved an application under Section 457 of CrPC before the JMFC, Kharsia for releasing of the seized vehicle which was rejected on the ground that the same was moved within a period of six months from the date the vehicle was seized during which period there is a bar from releasing the vehicle. Against the said order of the trial Court, the petitioner preferred a criminal revision before the Fifth Additional Sessions Judge, Raigarh and the Revisional Court also vide its order dated 26.07.2016 rejected the revision petition on the same ground leading to the

filing of this petition under Section 482 CrPC.

3. Counsel for the petitioner submits that the vehicle involved in the present case was seized on 09.06.2016 and now six months' period has elapsed, therefore, this Court may order for releasing of the same.

4. State counsel submits that it is a case where the Court below had rejected the application under Section 457 CrPC only on the ground of technicality and not on merit and the six months period has elapsed. He further submits that now the petitioner may prefer a fresh application before the trial Court in the light of the changed circumstances for releasing of the seized vehicle on Supurdnama.

5. Taking into consideration the facts and circumstances of the case, this Court is of the view that at this juncture, it would not be proper to invoke the extraordinary jurisdiction under Section 482 of CrPC.

6. Accordingly, the Petitioner is directed to approach the Trial Court by moving a fresh application under Section 457 of CrPC and in the event of such application is moved by the Petitioner, the concerned Court below is expected to consider the case of the Petitioner on its merits as expeditiously as possible keeping in view the decisions rendered by the Supreme Court in the case of **Sunderbhai Ambalal Desai Vs. State of Gujrat, 2002 (10) SCC 283**, as also the case of **Multani Hanifbhai Kalubhai Vs. State of Gujrat & Another, 2013 (3) SCC 240**.

7. With the aforesaid observations, the Criminal Misc. Petition stands disposed of.

Sd/-
P. Sam Koshy
Judge