

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 890 of 2015**

1. Dhaniram S/o Ramratan Yadav, aged about 40 years, R/o Bamhanidih, Police Station-Simga, District-Balodabazar-Bhatapara Chhattisgarh

**---- Petitioner**

**Versus**

1. State of Chhattisgarh, through the District Magistrate, Mungeli Chhattisgarh

**---- Respondent**

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For Petitioner – Mr. Goutam Khetrapal, Advocate.

For Respondent – Ms. M.Asha, Panel Lawyer.

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**Hon'ble Shri Justice Chandra Bhushan Bajpai**

**Order on Board**

**18/02/2016**

1. With the consent of the parties, the matter heard finally at the motion stage itself.
2. Brief facts required for the instant Cr.M.P. are that accused Rakesh @ Chandrapal @ Chandrakar @ Chandrabhan Patel is facing trial before the Judicial Magistrate First Class, Mungeli, C.G. under the provisions of Sections 4, 6 and 10 of the Chhattisgarh Agricultural Cattle Preservation Act, 2004 ( in brevity 'the Act, 2004) and also under Section 11 of the provision of the Prevention of Cruelty to Animals Act, 1960 (in brevity 'the Act, 1960). During the investigation, police seized vehicle bearing No. CG 04 ZD 4952. Trial is going on. The petitioner/owner of the said vehicle had filed an application for the interim custody of the said vehicle on Supurdnama. The said application was rejected on 21-04-2015 holding that the minimum period required, i.e., 6 months from the date of such seizure is not expired. Thereafter, again the petitioner had filed a repeat application for the interim custody of the said vehicle. The learned trial Court vide its order dated 14-08-2015 held that as per provisions of Section 6 Sub-section 3 of the Act, 2004, the vehicle so seized

shall not be released by the order of the Court on bond or surety before expiry of six months from the date of such seizure or till the final judgment of the court, whichever is earlier and though the period of 6 months from the date of seizure has expired but, as the property in question is liable for confiscation, hence, the trial Court refuse to grant the interim custody to the petitioner. Against the said order, the petitioner had filed a Criminal Revision No.H-31/2015 before the Court of Additional Sessions Judge, Mungeli, C.G. The revisional Court vide order dated 07-09-2015 held that as the trial Court has not committed any illegality or impropriety, hence the revision fails thereby dismissed the revision filed. Against the said order the petitioner filed the instant Cr.M.P. invoking the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. and submitted that since the vehicle in question is a motorized vehicle, lying idle thereby decaying and also the property is deteriorating everyday, they are praying for interim custody. The Court is having an authority to order for confiscation of the said vehicle at the conclusion of the trial under the provisions of Section 452 of the Cr.P.C. They will abide by terms and conditions if the Court below orders for confiscation in the judgment, till then they be given the interim custody. It is prayed that the Court below be directed to grant the interim custody of the said vehicle in terms and conditions to be imposed by the trial Court.

3. On the other hand, by filing the reply to the instant Cr.M.P. the respondent/State opposed the petition.

4. Heard both the counsel.

5. Learned counsel for the petitioner submitted that the vehicle can be given on interim custody and if the trial Court in the judgment orders for confiscation of the same, the same may be produced as per order of the Court and that may be subject to the challenge before higher forum, till then temporary custody be given on Supurdnama.

6. On the other hand, learned counsel appearing for the State/respondent opposed the petition and submitted that as there is provision of confiscation and the trial is going on, the instant Cr.M.P. may be dismissed.

7. For appreciation of the entire facts, the instant Cr.M.P., documents annexed and the reply are perused.

8. For appreciation on the arguments, the provision provided in Section 6(3) of the Act, 2004 is relevant which reads as under:

**6. Prohibition on transport of Agricultural cattle for slaughter –**

(1) xxxx xxxxx

(2) xxxxx xxxxx

(3) The vehicle or conveyance so seized under sub-section (2) shall not be released by the order of the court on bond or surety before the expiry of six months from the date of such seizure or till the final judgment of the court, whichever is earlier and such vehicle shall also be liable for confiscation at the end of the trial.

9. From the perusal of the above provision, it is apparent that before completion of six months from the date of seizure the vehicle in question shall not be released by the order of the court on bond or surety and the such vehicle shall also be liable for confiscation at the end of the trial. From bare perusal of Section 452 of the Cr.P.C. it appears that after conclusion of the trial any criminal Court may make such order as he thinks fit for confiscation. Presently, the trial has not been concluded. Undisputedly, six months from the date of seizure has expired. Since the vehicle in question is motorized, may deteriorate and other complication may arise if the vehicle in question be allowed to remain as idle, also the petitioner is merely asking for temporary custody that too till conclusion of the trial and if the court thinks it proper, the court may order for confiscation after conclusion of the trial that may be depend upon the evidence adduced before the trial Court, till conclusion of the trial, in the considered view of this Court, it would be appropriate to allow the instant Cr.M.P. and order for the interim custody for the petitioner upon the facts that he must be owner under the provisions of the Motor Vehicles Act and

complies the other formalities as required along with the terms and conditions regarding the interim custody of the vehicle in question to the satisfaction of the trial Court.

10. On due consideration, this Court invokes inherent jurisdiction under Section 482 of the Cr.P.C. and is of the view that the petition is liable to be allowed. Consequently, the order passed by the trial Court dated 14-08-2015 and the order passed by the revisional Court dated 07-09-2015 are hereby set aside. The trial Court is directed to ascertain the ownership of the petitioner, also to ascertain that the petitioner is having all formalities required for interim custody of the said vehicle and the vehicle be given on Supurdnama with or without surety as per satisfaction of the trial Court till the conclusion of the trial. The petitioner may file copy of this order before the Court below for compliance.

11. The petition allowed.

12. Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)  
JUDGE