

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 1174 of 2015

Dilip Banjare S/o Bishun Banjare Aged About 20 Years R/o
Nagardih, P.S. Chakarbhata, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station, Masturi, District Bilaspur Chhattisgarh.
2. Gulab Chand Ratre S/o Bahoran Prasad Ratre Aged About 20 Years R/o Nagaradih, P.S. Chakarbhata, District Bilaspur Chhattisgarh.

... Respondents

For Petitioner	:	Mr. S.K. Chandra, Advocate.
For Respondent-State	:	Ms. Madhunisha Singh, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/05/2016

1. The present petition under Section 482 of CrPC has been filed seeking for releasing of seized vehicle Hero Motorcycle HF Deluxe, bearing Registration No. C.G.-10 Y-6201 on Supurdnama.
2. Brief facts of the case are that the above seized vehicle was found to be involved in carrying 10 litres of country made liquor. The said vehicle was seized by the Police Station, Masturi, on 12.07.2015 and since then it is in the custody of the said Police Station in connection with Crime No. 212/2015 registered under Sections 34(1)A, 2,3, 47-A(1)(2), 59(A)(1)(2) of the Chhattisgarh Excise Act, 1915. An application was moved by the Petitioner under Section 457 of CrPC for releasing of the seized vehicle on Supurdnama which was rejected by the Judicial Magistrate First Class, Bilaspur vide order dated 01.09.2015 in Criminal Case No. 7635 of 2015. The said order dated 01.09.2015 was challenged by the Petitioner before the Sessions Judge, Session Division, Bilaspur which was affirmed vide

order dated 19.11.2015 of the Sessions Judge, Session Division Bilaspur, in Revision Petition No. 195 of 2015, leading to the filing of the present petition under Section 482 of CrPC.

3. Learned Counsel for the Petitioner submits that the Petitioner is a registered owner of the seized vehicle. He further submits that since the vehicle is lying idle for over 10 months no fruitful purpose would be served if the vehicle remains idle in the custody of the police personnels exposed to the extreme weather conditions. The vehicle would get decayed day by day and would further deteriorate by passage of time to the extent that it would become unusable after some time and therefore in the interest of justice the vehicle may be released to the Petitioner. He further undertakes to give any sort of support required till the finalization of the criminal case or for that matter any other proceedings initiated by the authorities.

4. Counsel for the State opposes the claim of the Petitioner submitting that the offence said to have been committed using the seized vehicle and that the impugned order rejecting the Petitioner's application for release of the seized vehicle on Supurdnama does not warrant any interference by this Court as the reasons assigned for rejecting the application are just and proper.

5. The Supreme Court in the case of **Sunderbhai Ambalal Desai Vs. State of Gujrat**, reported in **2002 (10) SCC 283** in paragraphs 7 and 17 has laid down the guiding principles for releasing the vehicle seized by police. For ready reference the relevant portion is reproduced below:-

“7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely:

1. owner of the article would not suffer because of its remaining unused or by its misappropriation;

2. court or the police would not be required to keep the article in safe custody;

3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and

4. this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.”

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17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the polices for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

6. Similar stand has also been taken by the Supreme Court recently in the case of **Multani Hanifbhai Kalubhai Vs. State of Gujrat & Another**, reported in **2013 (3) SCC 240**, wherein the Supreme Court has expressed that it is not advisable to keep the seized vehicle in the police station in open condition which is prone to natural decay on account of weather conditions for a long period.

7. In the instant case, trial is going on and confiscation proceeding by the competent authority is not completed, therefore no useful purpose would be served if the vehicle is allowed to get exposed in the extreme weather conditions at the police station. On the contrary, if the vehicle can be released to the Petitioner till the confiscation proceedings are completed subject to certain conditions he can use it so that the vehicle does not become junk.

8. For the foregoing reasons, it is directed that the seized vehicle belonging to the Petitioner, i.e., Hero Motorcycle HF Deluxe, bearing Registration No. C.G.-10 Y-6201, be released to the Petitioner upon his furnishing an appropriate bond and guarantee to the satisfaction of the

Court below for return of the said vehicle. In the bond he shall give an undertaking that he shall not change the ownership of the vehicle nor shall he change the colour of the vehicle neither shall he create a third party right or interest over the said vehicle. He shall also undertake that he shall produce the vehicle as and when required by the prosecution during the course of investigation, trial and confiscation proceedings and even at the appellate stage. He shall further undertake to produce the vehicle to any competent authority under different statutes as and when required. So far as surety is concerned, it shall be equal to the present day value of the vehicle seized to the satisfaction of the concerned Trial Court.

9. With the aforesaid observations, the Criminal Misc. Petition is allowed.

Sd/-

(P. Sam Koshy)
Judge