

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr) No.288 of 2016**

M/s Sunil Kumar Singh, Through its Proprietor Sunil Kumar Singh
S/o Late Virendra Pratap Singh, aged about 50 years, Resident of
Babupara, Ambikapur, District Surguja (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Forest Department, Mahanadi Bhawan, Mantralay, Raipur (CG)
2. The Chief Conservator of Forest, Manendragarh, District Korea (CG)
3. The District Forest Officer, Baikunthpur Range, Janakpur, District Korea (CG)
4. The Sub Divisional Officer, Janakpur, District Korea (CG)
5. Executive Engineer, Water Resource Department, Division Baikunthpur, District Korea (CG)

---- Respondents

For Petitioner: Shri Sunil Tripathi, Advocate.

For Respondent/State: Shri Arun Sao, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board By**16/05/2017**

(1) The petitioner has filed this petition for quashment of entire proceeding initiated in Forest Crime No.6170/2014 by respondent No.4 and for release of his vehicle stating inter-alia that registration of offence is contrary to law and as such, he is entitled to be released the vehicle on furnishing security.

(2) Learned counsel for the petitioner would submit that amount of recovery to the extent of Rs.548229/- has already been paid and nothing has been seized from his tractor, which is apparent from seizure memo prepared by the forest officers. No material was found loaded in his truck, therefore, registration of the offence and confiscation proceeding is bad in law. He would further submit that confiscation proceeding is going on and forest offence has been

registered by respondent No.4 and as such, he is entitled for interim custody of the alleged vehicle.

(3) On the other hand, learned counsel for the respondents would oppose the petition.

(4) I have heard learned counsel for the parties and perused the impugned order.

(5) After hearing learned counsel for the parties, I do not find any good ground to quash the confiscation proceeding which is pending consideration before respondent No.4. However, confiscation proceeding has been initiated against the petitioner and he is facing confiscation proceeding before respondent No.4 and conclusion of confiscation proceeding is likely to take time and if the truck in question is allowed to stand unused in the forest office, its condition would become bad, as the petitioner is ready and willing to furnish the security and also ready to produce the vehicle as and when required by respondent No.4, it would be expedient to grant interim custody of vehicle to the petitioner till conclusion of confiscation proceedings with the following directions:-

(i) The petitioner shall execute a bond in a sum of Rs.5,00,000/-(five lakhs) with two solvent sureties to the satisfaction of respondent No.4/Sub Divisional Officer, Janakpur, District Korea.

(ii) The petitioner must satisfy the respondent No.4/Sub Divisional Officer, Janakpur that he is the registered owner of the offending vehicle.

(iii) The petitioner shall not transfer or dispose of the offending vehicle to any one else and shall not make any

change in its body, colour or engine. It is needless to say that make, colour, chassis number, and engine number of the offending vehicle shall be furnished by the petitioner before respondent No.4 with an undertaking that no damage shall be caused or no part of the vehicle be substituted.

(iv) The petitioner shall also file an undertaking before respondent No.4 that the offending vehicle shall not be used for commission of offence; and before giving interim custody of the offending vehicle to the petitioner, three coloured photographs of cabinet size from different angles clearly indicating registration number and other particulars of the vehicle shall be kept on file. The expenses for the photographs shall be borne by the petitioner.

(v) The petitioner shall produce vehicle either before respondent No.4 or such authorities as it may be directed, on his own expenses.

(6) This order shall remain operative till the confiscation proceeding is finally decided by respondent No.4. All other contentions are kept open and to be raised at appropriate proceedings. This order would without prejudice to the right of parties. The Respondent No.4 is directed to conclude the said proceeding within 3 months from the date of production of this order.

(7) With the aforesaid observation, the writ petition is finally disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge