

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 107 of 2017**

Mohd. Saquib son of Mohd. Shakur, aged about 42 years, resident of Pathan-Puri, Juni Basti, Murtijapur, P.S. Murtijapur, Civil and Revenue District Akola, Maharastra.

---- Petitioner**Versus**

State of Chhattisgarh through the police station Dhamtari, Civil and Revenue District Dhamtari, Chhattisgarh.

---- Respondent

For the petitioner	:	Shri Punit Ruparel, Advocate.
For the respondent/ State	:	Smt. Sobha Kashyap, Deputy Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****06.03.2017**

1. Heard on I.A. No. 1 of 2017, an application for urgent hearing of the case. Considering the grounds mentioned in the application, the same is allowed.

2. Also heard on petition under Section 482 of the Cr.P.C. The petitioner claims that he is the registered owner of truck bearing registration No. MH/41/Y-9355 which has been seized by the police station, Dhamtari, District Dhamtari in Criminal Appeal No. 190 of 2016 registered for the offences under Sections 4, 6, 10 of the Chhattisgarh Agriculture Cattle Preservation Act, Section 11 of the Cruelty to the Animals Act and under Sections 66 and 192 of the Motor Vehicles Act in which allegedly some cattle were being transported for being slaughtered. The petitioner moved an application for release of the seized vehicle before the Magistrate having

jurisdiction. The application was rejected vide order dated 19.12.2016 and this order was challenged before the Additional Sessions Court, Dhamtari which was heard and decided by order dated 12.1.2017, upholding the order of the court below giving reason that the procedure for confiscation has been initiated.

3. The grounds of challenge in this petition are that the order of the courts below is illegal, arbitrary and contrary to the provisions of law. The seized truck is lying idle in the police station, Dhamtari which will become useless and valueless by passing of time. The petitioner is the registered owner of the seized vehicle and he is entitled for interim possession of the vehicle. A prayer has been made to set aside the order passed by the courts below and to pass a suitable order in the interest of justice.

4. The petitioner has placed reliance on the order of this court in **Mohd. Sajid vs. State of Chhattisgarh**, Criminal Misc. Petition No. 541 of 2016 passed on 25/07/2016, in which this court allowing the petition ordered for interim custody of the vehicle involved in transporting cattle, which was seized under the provisions of the Chhattisgarh Agriculture Cattle Preservation Act and Cruelty to the Animals Act. As informed by counsel for the petitioner, the case against the petitioner and others is still pending before the trial Court.

5. Considering the judgment of the Co-ordinate Bench of this court and the judgment of the Supreme Court in **Multani Hanifbhai Kalubhai vs. State of Gujarat and Another** reported in **AIR 2013 SC 644**, it is a fit case where the petition should be allowed.

6. For the foregoing reasons, it is directed that pending the confiscation proceeding, the seized vehicle belonging to the petitioner, i.e. a truck bearing registration No. MH/41/Y-9355, be released to the petitioner upon his furnishing an appropriate bond and guarantee for a sum to be ordered by the court below to the satisfaction of the court for return of the said vehicle, if required at any point of time. In the bond he shall give an undertaking that he shall not change the ownership of the vehicle nor shall change the colour of the vehicle or 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 even at the appellate stage. He shall further undertake to produce the vehicle to any competent authority under any other 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. The undertaking and condition also would be to abide by the final order passed in the confiscation proceeding whenever the same is completed.

7. With the aforesaid observation, the Criminal Misc. Petition is allowed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge