

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 400 of 2017**

Madan Pandey, S/o. Late Shatrudhan Pandey, Aged About 66 Years,
(Through Power Of Attorney Of Prakash Dev Pandey, S/o. Madan Pandey,
Aged About 40 Years) R/o. Anand Nagar, Balia, Uttar Pradesh.

---- Applicant**Versus**

State Of Chhattisgarh, Through S.H.O. Police Station Ambikapur, District
Surguja, Chhattisgarh.

--- Respondent

For the Applicant	:	Mr. Vivek Tripathi, Advocate
For the State	:	Mr. Sangharsh Pandey, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****25.09.2017**

1. This petition is against the order dated 22.02.2017 passed in Special S.T.No. 02/2017 by the learned Special Sessions Judge, Ambikapur, District Surguja (C.G.) whereby the application for releasing the vehicle i.e. S-Cross of Maruti Suzuki on *Suprudnama* from custody of Police has been rejected.
2. As per the case of prosecution, on 07.12.2016 a Car S-Cross bearing No.UP-32GS-9764 which was carrying total 27.100 Kg Cannabis was being driven by the son of the present applicant Prakash Dev Pandey and other co-accused. The Car having been intercepted, it was seized and thereafter has been kept under the police custody. The applicant claims to be the owner of the vehicle.
3. Learned counsel for the applicant would submit that the Cannabis were being transported without the knowledge of the applicant/owner and it can be proved during the course of evidence and during the entire trial, if the vehicle is kept in the police custody, it will turn junk. Therefore, the vehicle may be handed over to the applicant who is the registered owner on *Suprudnama*.
4. Per contra, learned State Counsel opposes the application and would submit that the matter is to be decided during the course of evidence

that whether the applicant was in knowledge of the fact that the vehicle was being used in the crime, therefore, at this stage the vehicle may not be released.

5. It is matter of common knowledge or experience that as and when the vehicles are seized and kept in police stations, not only do they occupy substantial space in police stations, but upon being kept in open are also prone to fast natural decay on account of whether conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than two weeks. Apart from the above, it is also matter of common knowledge that several valuable and costly parts of the said vehicle are either gets junked or are cannibalized so that the vehicles become unworthy of being driven on road. Therefore, no purpose will be served to keep the vehicle in police custody for a long time as it will turn junk and also occupy the substantial place of police station.
6. Considering the entirety of the facts, the reason assigned by the learned Court below in the impugned order dated 22.02.2017 cannot be appreciated
7. Under the circumstances, following the principles laid down in **(2010) 6 SCC 768** and **(2002) 10 SCC 283**, I am inclined to release the vehicle in favour of the applicant. Accordingly, the vehicle shall be released on the following conditions :-
 - (I) Before release of vehicle proper Panchnama be prepared.
 - (ii) Photographs of vehicle should be taken and bond should also be produced that the vehicle would be produced if required at the time of trial.
 - (iii) Proper security i.e., personal bond of Rs.10 Lacs and like sum of surety be obtained before release of vehicle.
8. In view of foregoing discussion, the petition succeeds and is allowed.

**Sd/-
GOUTAM BHADURI
JUDGE**