

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 729 of 2017**

Dharampal Nayak, S/o. Shri Anantram Nayak, Aged About 40 Years,
R/o. Timarlaga, Police Station Sarangarh, District Raigarh, Civil &
Revenue District - Raigarh, Chhattisgarh .

---- Appellant

Versus

1. State Of Chhattisgarh, Through Police Station- Sarangarh, District Raigarh, Chhattisgarh.
2. District Magistrate Raigarh, District Raigarh, Chhattisgarh

--- Respondent

For the Applicant	:	Mr. Manoj Kumar Sinha, Advocate
For the State	:	Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

12.09.2017

1. This criminal appeal is against the order dated 03.04.2017 wherein an application to release the vehicle on *Supurdnama* in terms of the order dated 28.09.2016 was refused.
2. Learned counsel for the appellant submits that in S.T. No.08/2016, the appellant who was accused has been acquitted by the Additional Sessions Judge and the Additional Sessions Judge while acquitting the appellant has observed that the seized vehicle Wagon R No. CG-13-UG/6834 (Chassis No. MA 3 EWDI 1500902425 & Engine No. K10BN7553484) may be released to the owner of the vehicle and eventuality the ownership documents of the vehicle are produced. It is contended that after that the application was filed for release of the vehicle, however, without any rhyme & reason, the same has been dismissed on 03.04.2017.

3. Learned State counsel on 10.08.2017 was directed to file reply as to whether any appeal has been filed against such acquittal order dated 28.09.2016 wherein the appellant has been acquitted and the direction was there for release of the vehicle.
4. The appellant has filed a communication dated 16.03.2017 under the Right to Information Act wherein it is stated that no proposal for appeal has been preferred against such acquittal order. The State counsel is also not able to submit whether any appeal has been filed or not ?
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. In view of the fact that when the acquittal order itself contended that after period of appeal, the vehicle may be released to the owner of the vehicle in case the ownership documents are filed, the order dated 03.04.2017 wherein the application has been rejected for custody of the vehicle cannot be sustained. Accordingly, the same is set aside. It is directed that the appellant, who is claiming to be owner of the vehicle, if satisfied the Court below with necessary documents, the vehicle may be released in his favour 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.2 Lakh and like sum of surety be obtained before release of vehicle.
7. In view of foregoing discussion, the appeal succeeds and is allowed.

**Sd/-
GOUTAM BHADURI
JUDGE**