

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 692 of 2017**

Sallu Meman S/o Late Ishak Meman, Aged About 42 Years R/o Ward No. 15, Gandai, Police Station Gandai, Tahsil Chhuikhadan, District Rajnandgaon, Chhattisgarh.

---- **Petitioner****Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Gandai, District Rajnandgaon, Chhattisgarh.

---- **Respondent**

For the Petitioner	:	Shri M.H.Baig, Advocate.
For the State	:	Shri Vivek Singhal, PL for the State.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****02.08.2017**

- 1 Heard.
2. Learned counsel for the petitioner submits that petitioner is the registered owner of the vehicle Truck No. C.G. 04 – LP 2399. This truck was seized by PS-Gandai, Tahsil-Chhuikhadan, District-Rajnandgaon, Chhattisgarh on 07.02.2017 from the possession of the petitioner with the suspicion that articles loaded in the truck were stolen property.
3. An application was moved before the Court of Judicial Magistrate First Class, Chhuikhadan for grant of interim custody of the vehicle concerned, the application was rejected by order dated 02.03.2017. Thereafter, Criminal Revision No.2. of 2017 was filed before the learned Additional Session Judge, Khairagarh District- Rajnandgaon, Chhattigarh, which has been decided by order dated 28.04.2017 by rejecting the revision petition. Hence, this petition.

4. Learned counsel for the petitioner submits that the order passed by the Court below is bad in law and the petitioner is entitled for the custody of the seized vehicle as he is the registered owner and no offence is made out against the petitioner.

5. Learned counsel for the State has opposed the arguments submitted on behalf of the petitioner and prayed for the dismissal of petition.

6. Documents produced with the petition demonstrate that the petitioner is registered owner of the vehicle concerned. On perusal of the case diary of Crime (Estgasa) No. 01 of 2017 registered under Section 41 (1) (d) read with Section 379 (1) (a) of the India Penal Code also discloses that charge sheet has already been filed mentioning the above mentioned provisions.

7. The above mentioned provisions are only with respect to the suspicion of the police that the property seized from the possession of petitioner may be stolen property. So far no result has come out of the investigation as to the articles loaded of the truck were stolen property.

8. The dispute is with respect to the articles loaded in the truck concerned, that the petitioner is the registered owner of the vehicle concerned is not disputed. Hence, it appears that he is entitled for interim custody of the vehicle. For these reasons, the impugned order and the orders passed by the Trial Court appears to be erroneous and is bad in law.

9. Accordingly, this petition is allowed at the motion stage. It is directed that the Trial Court shall make assessment of value of the seized Truck No. C.G. 04 – LP 2399 and pass the orders accordingly for production of one surety and personal bond from the petitioner to the satisfaction of the trial

Court.

10. On furnishing of Surety and bond, order shall be passed for release of the vehicle concerned by P.S.-Gandai, Tahsil-Chhuikhadan, District-Rajnandgaon, Chhattisgarh. Further, conditions are imposed that petitioner shall not make any changes to the vehicle concerned and further shall not alienate transfer or otherwise hand over the possession of the vehicle and produce before the Trial Court, whenever, directed to do so.

11. This petition is disposed off.

Sd /-
(Rajendra Chandra Singh Samant)
Judge