

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 769 of 2017

Himmat Lal Sahu, S/o. Sawant Ram Sahu, aged about 42 years, R/o. Village- Aangara, Police Station – Kurud, Tahsil – Bodla, District – Dhamtari (C.G.)

---- Petitioner

Versus

State Of Chhattisgarh, Through : District Magistrate, District – Dhamtari (C.G.)

-----Respondent

For Petitioner : Mr. R.S. Patel, Advocate

For Respondent/State : Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/07/2017

Heard.

1. Counsel for the petitioner submits that petitioner is registered owner of the vehicle bearing registration No.C.G.-04/HW/6764, this vehicle was seized in Crime No.429/2016, registered by the Police Station – Kurud, District – Dhamtari for offence U/s. 11 (1) (d) (e) of Prevention of Cruelty to Animals Act, 1960 and also under Section 6 (1) of C.G. Krishik Pashu Parirakshan Adhiniyam, 2004, in which charge sheet has been submitted before the Court after completion of the investigation. Petitioner moved an application for interim custody of the seized vehicle before the trial Court on 03.01.2017. The application was rejected on the ground of being premature as

Section 6 (3) of Chhattisgarh Krishak Pashu Parirakshan Adhiniyam, provided that interim custody of any vehicle seized for any offence under the act can not be released, within a period of six months from the date of seizure or before the end of trial which ever is earlier. After completion of six months, petitioner again moved an application on 04.05.2017 praying for interim release of the seized vehicle. This application was rejected by the trial Court vide order dated 04.05.2017. A revision was preferred against this order, the revision petition No.26/2017 was decided by the Court of Additional District and Sessions Judge, Dhamtari on 07.06.2017 rejecting the prayer of petitioner. Hence this petition.

2. It is submitted that the seized vehicle is still lying in the campus of Police Station- Kurud and by passing of time, its value has diminished and utility has decreased and further the mandatory period of six months has passed within which the trial before the Court below has not been completed. It is well within the jurisdiction of Court to order for interim release of the vehicle as on the date of passing order, the period of six months had already elapsed. Hence the impugned order is bad in law, which is required to be set-aside.
3. Counsel for the State has opposed the petition and submitted that as per requirement of Section 6 (3) of the Act, 1959, the seized vehicle is also liable for confiscation hence, the petition is not maintainable.
4. Counsel for the petitioner has placed reliance on the judgment of this Court in case of ***Imran Quraishi Vs. State of C.G.***, reported in ***2016 Law Suit (Chh) 233, Md. Aslam Chouhan and Others Vs.***

State of C.G., reported in 2013 (3) C.G.L.R.W. 312 (DB) and Arvind Kumar Pandey Vs. State of C.G., reported in 2015 (1) C.G.L.J. 361.

5. Perused the documents on record. As submitted, the petitioner appears to be registered owner of the vehicle of given description, which has been seized in case concerned. Petitioner is not one of the accused person in this case. The only reason which has been mentioned by the revision Court in the order is that the seized vehicle can not be released as per the provisions of law till the expiry of the mandatory period or completion of trial which ever is earlier.
6. As per the contents of the impugned order, the vehicle was seized on 30.09.2016. Hence it is almost going to be one year since the date of seizure of vehicle concerned. There is no information as to completion of trial or any other order passed with respect to the disposal of the seized vehicle and also no information as to any confiscation proceeding being drawn in this respect. Hence, looking to all the circumstances in this case, it appears, the order of interim release can be passed in favour of the petitioner by imposition of suitable conditions. Hence this petition filed under Section 482 of Cr.P.C. is allowed.
7. It is directed that trial Court shall make assessment of value of seized vehicle and pass the orders accordingly for production of one surety and personal bond from the petitioner to the satisfaction of the trial Court. Conditions are imposed that petitioner shall not transfer, alienate or otherwise hand over the possession of the

vehicle to any other person till the conclusion of trial subject to the order of disposal to be passed by the trial Court in its judgment. Further this condition is also imposed that petitioner shall be required to keep the vehicle in maintained condition without making any change in colour or otherwise so as to change the identity and further petitioner shall also be required to produce the vehicle before the Court as and when ordered by the trial Court for its production.

8. Accordingly with these directions, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram