

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1139 of 2017**

Ghanshyam S/o Madanpal, Aged About 31 Years R/o Plot No. 83, Tahsodahara Nagar, Lal Jhanda Chowk Nagpur(Maharashtra); Through General Power Of Attorney Mohammad Mustafa Kuraishi,

---- Petitioner**Versus**

State Of Chhattisgarh Through: District Magistrate Bilaspur: District (Revenue & Civil) Bilaspur, Chhattisgarh.

--- Respondent

For the Petitioner : Shri Anand Kesharwani, Advocate.
For the Respondent/ State : Shri Neeraj Sharma,D.G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****29.08.2017**

1. Heard on admission.
2. Admit.
3. Learned counsel for the petitioner prays that Mohammad Mustafa Kuraishi is the registered owner of truck bearing No. C.G.-04 Z.A.5586, which was seized in connection with Crime No.94/2016 for offence under Section 6,10 Chhattisgarh Krishi Pashu Parirakshan Adhiniyam 2004 and Section 11 of Cruelty to Animals Act.1960 by PS-Hirri, Bilaspur.
4. Petitioner in capacity of attorney holder to the registered owner moved application under Section 457 of Cr.P.C before the Court of Judicial Magistrate First Class, Bilaspur.
5. The application was allowed on condition that the interim custody of the seized vehicle shall be given only to the registered owner of the vehicle on furnishing of bond and Supurdnama as ordered. Against

the aforesaid order, Criminal Revision No. 74/2017 was filed before the Sessions Court, Bilaspur which has been rejected vide order dated 29.05.2017.

6. It is submitted that petitioner is general power of attorney holder of the registered owner Mohammad Mustafa Kuraishi and considering the said fact, he is entitled to manage the business of the registered owner of the vehicle, hence, for these reasons the orders of the courts below not authorizing the petitioner to receive the seized vehicle in the interim custody is improper and arbitrary.
7. Learned counsel for the State has opposed the petition and the submission made in this respect.
8. Heard perused the material on record.
9. The copy of general power of attorney in favour of the petitioner has been submitted on record, which specifically authorizes the petitioner Ghanshyam S/o Madanlalpal to manage, maintain and make use of the vehicle which has been seized in connection with the offence mentioned above. The order of the Trial Court does not disclose any specific reason for refusal to authorize the petitioner to receive the seized vehicle in interim custody, whereas Revisional Court has given reason that the registered owner of the vehicle is physically disabled is not mentioned in the power of attorney and also that no medical proof has been given to this Court.
10. The general power of attorney is a lawfully executed instrument which is legally acceptable and by the power of attorney the person giving such power authorizes a person to whom the power is given to do all mentioned acts, in such power of attorney, hence, there is no reason

why the courts below have refused to acknowledge the same and refused to authorize the petitioner to receive the vehicle in interim custody on behalf of the registered owner.

11. After due consideration and on the basis of the reasons as mentioned, above this petition is allowed at the motion stage
12. The order passed by the Courts below is modified to this extent, that the interim custody of the seized vehicle shall be given to the petitioner on his furnishing the bond and supurdnama as per the order passed by the Magistrate-JMFC, Bilaspur, on conditions specified in the order
13. This petition disposed of.

Sd /-

(Rajendra Chandra Singh Samant)
Judge