

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 85 of 2018

Habibuddin S/o Nabiuddin Aged About 46 Years R/o Village
Podi, Police Station Bodla District Kabirdham Chhattisgarh,
District : Kawardha (Kabirdham), Chhattisgarh --- **Petitioner**

Versus

The State of Chhattisgarh through the Chowki Fasterpur
Mungeli, District Mungeli District : Mungeli, Chhattisgarh ---
Respondent

For Petitioner	: Mr. Arun Kochar, Advocate
For Respondent/State	: Mr. S.K. Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

08.05.2018

1. This petition is against the order dated 23.12.2017 passed by the Learned Sessions Judge, Mungeli in Criminal Revision No. 44/2017 whereby the order passed by the CJM, Mungeli dated 07.11.2017 rejecting the application moved by the petitioner for releasing the vehicle on *Suprudnama* was affirmed.
2. Learned counsel for the petitioner submits that the petitioner is the owner of the vehicle in question bearing No.C.G.09/5171 as the purchase was made in the month of February, 2017. However, the registration could not be effected as such the agreement was executed and if the vehicle is kept in the custody of the police it will not serve any purpose and the

applicant who is the Power of Attorney Holder of the vehicle has filed the petition on behalf of the original owner Santuram Chandravanshi , therefore, the vehicle may be returned. He placed reliance in *Dashrath Prasad Vs. State of Madhya Pradesh* decided on 09.01.2017 and *Arvind Vs. State of M.P.*, dated 14th March 2013 passed in M.Cr.C.No. 1142/ 2013.

3. Per contra, learned State Counsel opposes the argument and submits that the petitioner has not been able to prove that he is owner.
4. Perused the documents and reply filed by the State. The facts would suggest that the Bolero vehicle bearing C.G.09-5171 was involved in a crime registered u/s 4, 6 & 10 of the Chhattisgarh Agricultural Cattle Preservation Act, 2004 and section 11(1) of the Prevention of Cruelty to Animals Act, 1960 as certain cattle were being transported. Subsequently the offence u/s 130(1)/117, 130(3)/177, 66/192 of the Motor Vehicles Act was also registered. After conducting the preliminary enquiry, it is alleged that on the date of incident, 14 cattle were being transported to the slaughter house as such the two vehicles were seized and one of the vehicle bearing No.C.G.09/5171 is sought to be released by the petitioner. The record would show that admittedly the petitioner is not owner of the vehicle as the vehicle is registered in the name of Santuram Chandravanshi. The said person Santuram Chandravanshi is not before the Court. One *Adhikar Patra* has been filed by the petitioner wherein it purports that on 22.02.2017, petitioner Habibuddin , son of

Nabiuddin has purchased the vehicle and the transfer of the possession was also made. The case law relied on by the petitioner also lays down the fact that in case of sale/transfer of movable property, the title of the property passes to transferee and the possession of the property i.e., vehicle is to be delivered to transferee.

5. In this case the offence is alleged to have been happened on 05.08.2017 and according to the *Adhikar Patra*, the transfer was made on 22.2.2017 i.e., six months prior to the commission of offence. The *Adhikar Patra* is dated 13.10.2017. The *Panchnama* which is filed by the State would show that the vehicle was seized in the night of 05.08.2017 at about 2.30 a.m., wherein 3 persons were sitting i.e., Ravi Goswami, Abdul Jabbar , Miyaz Ahmad. In this petition, the averments have been made that the accused persons have duly purchased the cattle from the cattle market. Ultimately the question as to how it came into the possession of the accused is completely silent. If the vehicle was actually transferred on 22.2.2017 according to the petitioner and the offence has been committed on 05.08.2017, no plausible explanation has been given to show that the petitioner has stepped into the shoes of the actually owner thereof and the very fact that the alleged Adhikar Patra which was executed on 13.10.2017 creates a doubt as it was done after the offence was committed.
6. The Supreme Court in case law reported in (2002) 10 SCC 283 *Sunderbhai Ambalal Desai Vs. state of Gujarat* has laid down

the principle which is primarily applicable to the owner of the vehicle.

7. In the result, the order of both the courts below cannot be said to be illegal. Accordingly the petition has no merit and is dismissed.

**Sd/-
(GOUTAM BHADURI)
JUDGE**