

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 618 of 2018

Mohd. Shakid S/o Mohd. Shakur Aged About 40 Years Caste
Musalman, R/o Pathanpara, Manikpur, Civil And Revenue District
Akola (Maharashtra)

---- Petitioner

Versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Charama, Civil And Revenue District Kanker Chhattisgarh

---- Respondent

For petitioner –Shri Punit Ruparel, Advocate.
For State-Smt. Madhunisha Singh, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

22/06/2018

Heard.

1. Instant petition is against the order dated 1/03/2018 passed by the Sessions Judge, Uttar Bastar, Kanker in Criminal Revision No.3/2018. By such order application for custody of the vehicle which was dismissed by the JMFC on 3/02/2018 was affirmed.
2. Brief facts of this case are that truck bearing No. C.G.04 J/3175 was seized in connection with Crime No.167/2017 for alleged offence punishable under sections 4, 6, 10 and 11 of the Pashu Krurta Nivaran Adhiniyam and section 66/192 of the Motor Vehicles Act at Police Station Charama. It is alleged that on the date of incident in the alleged truck 18 buffaloes were being taken to Maharashtra and Andhra Pradesh for slaughter and two buffaloes were found dead. When documents were asked by the police from the driver of the vehicle he failed to produce the documents. Consequently, offence has been committed.
3. Learned counsel for the petitioner submits that vehicle was seized on 11/07/2017 and thereafter trial is still going on and it has not been

finally concluded. He submits that as per sub section-3 of section 6 of the C.G. Agricultural Cattle Preservation Act, 2004 no bar is created to give vehicle on supurdnama and both the court below has dismissed the application to release only on the ground that confiscation proceeding has been commenced.

4. Learned State counsel opposes the same. The reply of the State and the documents filed alongwith it nothing has been placed on record to show that vehicle is already confiscated. It is only stated that confiscation proceeding are going in the court of District Magistrate, therefore same could not have been released by the court below.

5. Sub-section-3 of Section 6 of the C.G. Agricultural Cattle Preservation Act, 2004 reads as under:-

“6(3) The vehicle or conveyance so seized under sub-section (2) shall not be released by the order of the court on bond or surety before the expiry of six months from the date of such seizure or till the final judgment of the court, whichever is earlier and such vehicle shall also be liable for confiscation at the end of the trial.”

6. Reading of the section would show that only bar is created to release the vehicle within a period of 6 months from the date of seizure or till final judgement of the court whichever is earlier. It also purports that vehicle shall be liable for confiscation at the end of the trial. It appears that the trial is still going on and the vehicle is lying in the open yard. The vehicle was seized on 11/07/2017. Admittedly therefore 6 months have already passed.

7. In context of subject matter the principle laid down in case of **General Insurance Council and others Vs. State of Andhra Pradesh and Ors.** reported in **(2010) 6 SCC 768** which has earlier reiterated principle laid down in case of **Sunderbhai Ambalal Desai Vs. State of**

Gujarat reported in **(2002) 10 SCC 283**, wherein it is held that keeping the vehicle in stationery position at the police station would not serve any purpose except the decay of it's value. In the facts of this case, keeping the vehicle for period indefinite in police station will destroy very nature of the vehicle as it may turn junk in future. Therefore, I am inclined to allow the application for interim custody of the vehicle.

8. In the result, order dated 1/03/2018 is quashed and the petition is allowed. The vehicle is directed to be released to the petitioner on the following conditions:-

1. Before release of vehicle proper panchnama be prepared.
2. Photographs of vehicle should be taken and bond should also be produced that the article would be produced if required at the time of trial.
3. Proper security i.e. personal bond of Rs.20 lakhs and like sum of local surety be obtained before release of vehicle.

Sd/-

(Goutam Bhaduri)

JUDGE