

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 89 of 2019**

Vijay Yadav S/o Chanddev Yadav Aged About 42 Years R/o Village Saraiya, P.S. - Krishangarh, District Aara, Bhojpur (Bihar). Current R/o Bandamuda, P.S. Bandamuda, District Rourkela (Odisha), Orissa
--- **Petitioner**

Versus

State of Chhattisgarh through Station House Officer Pussore, Raigarh, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh
--- **Respondent**

For the petitioner : Mr. Krishna Tandon Advocate

For the State : Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board**12.03.2019**

1. The instant petition is against the order dated 28th November 2018 passed by the learned Addl. Sessions Judge, Raigarh in Criminal Revision No.174 of 2018 whereby the Revisional Court has affirmed order 26.10.2018 rejecting the custody of vehicle passed by the JMFC, Raigarh in MJC No.461/2017. The said vehicle was involved in offence punishable u/s 4, 6, 10 of Chhattisgarh Agricultural Cattle Preservation Act, 2004 and section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960.
2. As per the case of prosecution on 15.09.2018 the vehicle bearing O.R.14-S/8001 was intercepted and it was found that 4 cattle were being transported from Chhattisgarh to Orissa and the offence was subsequently registered. Subsequently the present petitioner claiming himself to be the owner of the vehicle filed an application for handing over the custody of

vehicle on the ground that he had given the vehicle to one Bablu Yadav on rent who was doing the business of dairy and during such period when the vehicle was on rent, 4 cattle were found probably which were being transported. The application for custody of the vehicle was dismissed on the ground that the bar is created under sub-section (3) of section 6 of the Act of 2004 as minimum six months period has not passed, the same was affirmed by the revisional Court.

3. In the instant petition u/s 482 of Cr.P.C., it is contended by the petitioner that six months period has already passed from the date of seizure on 11.08.2018 and no purpose would be served to get the vehicle in custody as it will lose its motor ability. It is further stated that under the circumstances since the petitioner has also not received any notice for confiscation till the case is decided, the vehicle may be handed over to the petitioner.
4. Learned State Counsel opposes for releasing the vehicle to the interim custody of the applicant.
5. A perusal of both the orders of courts below do not show that any material irregularity has been committed. While exercising the power u/s 482 of Cr.P.C., this Court is of the view that the vehicle has been seized on 11.08.2018 and as on the date of hearing six months have already passed. Further the State is silent as to whether the confiscation proceeding has commenced or not
6. Under the circumstances, considering the decision of the Supreme Court rendered in case of ***General Insurance Council Vs. State of Andhra Pradesh reported in***

(2010) 6 SCC 768 wherein principles laid down in *Sunderbhai Ambalal Desai vs. State of Gujarat* (2002) 10 SCC 283 has been reiterated that keeping the vehicle in stationary position at the police station would not serve any purpose except the decay of its value and will destroy the nature of vehicle as it may turn junk, I am inclined to release the vehicle to the interim custody of the applicant.

7. In the result, the petition is allowed. The Pick-Up vehicle bearing O.R.14-S/8001 is directed to be released to the petitioner on the following conditions :

(i) Before release of vehicle proper Panchnama be prepared.

(ii) Photographs of vehicle should be taken and bond should also be produced that the article would be produced at the time of trial, if required.

(iii) Proper security i.e., personal bond of Rs.,5,00,000/- and a surety in the like sum be obtained before release of vehicle.

Sd/-

GOUTAM BHADURI
JUDGE