

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 258 of 2019

- Kaptan Singh S/o Shri Chatur Singh Aged About 47 Years R/o Ward No. 9, Police Station - Parpodi, District – Bemetara, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station - Parpodi, District- Bemetara Chhattisgarh.

---- Respondent

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CRA No. 261 of 2019

- Suman Singh W/o Shri Kaptan Singh Aged About 43 Years R/o Ward No. 9, Police Station Parpodi, District-Bemetara Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Parpodi, District Bemetara Chhattisgarh.

---- Respondent

For the Appellants : Mr. Dharmesh Srivastava, Advocate.

For the State/Respondent : Mr. Adil Minhaj, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on board

08/04/2019

1. Appellants have preferred these appeals under Section 454 of CrPC for setting aside of the order of disposal of seized property passed by the Court below and for passing appropriate order for grant of custody of seized vehicles Truck Tipper bearing registration No.CG-07/C/9617 and JCB bearing Chassis No.HAR3DXSSE01848448 & Engine No.H00051639.
2. Learned counsel for the appellant submits that an erroneous order has been passed by the Court below for confiscation of aforesaid vehicles. Although appellant in CRA No.258/2019 has been convicted and sentenced by the Court below but he has presented appeal before this Court against his conviction and his application for suspension of sentence and grant of bail has also been allowed, therefore, he is hopeful of succeeding in his appeal against conviction. The seized property in question has no connection with the offence committed, therefore, it is prayed that order of disposal passed by the Court below in the impugned judgment be set aside.
3. Learned counsel for the State has opposed the grounds urged in appeal and the arguments submitted in this behalf from the appellants' side. It is submitted that these vehicles were used for commission of offence of murder by the convicted appellant. Therefore, the vehicles being substance of proof, should not be released on custody and the order passed by the Court below is justified.
4. I have heard learned counsel for the parties and perused record of

the trial Court including the impugned judgment.

5. Vehicles of above description have been seized in connection with Crime 50/2016 registered for commission of offence punishable under Section 302, 201 read with Section 34 of Indian Penal Code (for short 'IPC') and Section 3/181 (read with 5/181), 39/192, 66/192 of Motor Vehicles Act, 1988 (for short 'the Act'). The Court below while convicting appellant Kaptan Singh has ordered in Paragraph No.44 of the judgment that the seized vehicles be confiscated subject to the orders of appellate Court, in case any appeal is filed.
6. After filing of this appeal and grant of bail to convicted appellant, this litigation has been extended, therefore, an order granting interim custody of these vehicles can be passed.
7. After due consideration, the order of disposal contained in the impugned judgment is set aside. The trial Court is directed to make an assessment of seized vehicles and order for furnishing bond and *Supurdnama*. On furnishing such bond and *Supurdnama*, the vehicles in question be released in favour of appellants herein with the condition that appellants shall not transfer or change description of vehicles. Appellants shall produce the said vehicles before the Court below when any such order is passed by this Court in appellate jurisdiction.
8. Accordingly, appeals are disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha