

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 962 of 2019**

- Mote Lal Kurre, S/o Banshi Lal Kurre, Aged About 49 Years, R/o Tahsil Road Jagdalla Champa Tahsil Champa, District : Janjgir-Champa, Chhattisgarh

---- Applicant**Versus**

1. State Of Chhattisgarh, Through The Police Station Urga, District : Korba, Chhattisgarh
2. Avinash Kurre, S/o Shri Samaru Lal Aged About 21 Years,
3. Rahul Kurre, S/o Shri Moti Lal, Aged About 19 Years,

Both are R/o Jagdalla, Police Station Champa, District : Janjgir-Champa, Chhattisgarh

----Respondents

For Applicant	: Shri G.L. Uike, Advocate
For Respondent No.1	: Shri Anurag Verma, Panel Lawyer

Hon'ble Smt. Justice Rajani Dubey**Order On Board****05.09.2019**

1. Heard on admission.
2. This revision is preferred against the order dated 15.07.2019, passed by the Special Judge, SC/ST Act, Korba (CG) in S.T. No. 23/2019, whereby the application filed by the applicant under Section 457 Cr.P.C. for Supurdnama of the vehicle involved in the Crime No.246/2018, has been rejected, which was involved in the offence under Section 395 of the Indian Penal Code.
3. As per the prosecution case, motorcycle bearing registration No. CG-11 AC 1264 was seized in connection with Crime No.246/2018, it is alleged that the said vehicle was involved in the

crime, was seized from the possession of the accused. The offence was registered under Section 395 of the IPC and the applicant was arrested and the vehicle was also seized. The application filed by the applicant for Supurdnama of the vehicle has been rejected by the trial court vide order dated 15.07.2019. Hence, this revision.

4. Learned counsel for the applicant submits that the order passed by the trial Court is perverse and contrary to law. He further submitted that the RC number was different but the chasis number and engine number of the motorcycle are same. The applicant is the registered owner of the seized motorcycle and there is no possibility that the applicant will destroy the motorcycle after receiving it on Supurdnama. The case is pending before the trial court and trial will take some time, therefore, if the seized motorcycle is kept in the custody of Police in stationary condition then the part of the motorcycle will be spoiled and it will not be usable in the future. He submits that the learned trial court has rejected the application for Supurdnama without considering the law laid down by the Hon'ble Apex Court in the matter of **Sundar Bhai Amba Bhai Vs. State of Gujarat**¹.
5. Learned counsel for the State opposes the arguments.
6. Heard learned counsel for the parties and perused the order of the court below.

¹AIR 2003 SCC

7. The trial court has rejected the application of the applicant on the ground that the property is seized under Section 395 of IPC and as per seizure memo RC number of the vehicle is different.
8. The Honble Apex Court in the matters of **General Insurance Council and others Vs. State of Andhra Pradesh and others**² and **Sunderbhai Ambalal Desai Vs. State of Gujarat**³, has held that if the vehicle is kept in the police station it must be occupying space or is prone to cause natural decay and may lose its road worthiness when kept in stationary position. This court in **CRMP No. 2344 of 2018** has also passed the order dated 8.3.2019 on same line. Therefore, the order of rejection of application for interim custody cannot be allowed to remain. It is clear from the RC book that the engine number and chasis number of the vehicle is same. Consequently, it is directed that the vehicle be released in favour of the applicant by way of interim measure, if the confiscation proceedings have not been concluded till date of production of this order.
9. In the result, order dated 15.07.2019 is quashed and the revision is allowed. The vehicle is directed to be released to the applicant on the following conditions:
 - I. Applicant shall execute a bond in sum of Rs.50,000/- with one surety of Rs.50,000/- to the satisfaction of the concerned court.
 - II. Applicant must satisfy the Court that he is the registered owner of the offending vehicle.

²(2010) 6 SCC 768

³(2002) 10 SCC 283

- III. The applicant shall not transfer or dispose of the offending vehicle to anyone else and shall not make any change in its body, colour or engine. It is needless to say that make, colour, chassis number, and engine number of the offending vehicle shall be furnished by the petitioner before the trial court with an undertaking that no damage shall be caused or no part of the vehicle be substituted.
- IV. The applicant shall also file an undertaking before the trial Court that the offending vehicle shall not be used for commission of offence; and before giving interim custody of the offending vehicle to the applicant, three coloured photographs of cabinet size from different angles clearly indicating registration number and other particulars of the vehicle shall be kept on file. The expenses for the photographs shall be borne by the applicant.
- V. The applicant shall produce vehicle either before this Court or before Collector or such authorities as it may be directed, on his own expenses.
10. Thus, the revision is allowed.

Sd/-
(Rajani Dubey)
JUDGE