

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No. 18 of 2019**

Tirth Kumar Bhardwaj, S/o. Shri Nandal Bhardwaj, aged about -36 years, registered owner of the Vehicle, R/o. Village – Gadumariya, Out Post Jutemill, P/s Kotwali, and District – Raigarh (C.G.)

----Petitioner

Versus

1. State of Chhattisgarh, Through - The Secretary, Department of Home Affairs, Mantralaya, New Raipur District – Raipur (C.G.)
2. The Director General of Police, Near New Mantralaya, Naya Raipur, Tahsil and District Raipur (C.G.)
3. The Inspector General of Police, Bilaspur Range, District – Bilaspur (C.G.)
4. The Superintendent of Police, Raigarh, Tahsil and District Raigarh (C.G.)
5. The Collector, Raigarh, Tahsil and District – Raigarh (C.G.)
6. The Station House Officer, of the Out Post – Jutemill, Police Station-Kotwali, Tahsil and District Raigarh (C.G.)

--Respondents

For Petitioner : Mr. Abhishek Saraf, Advocate.
 For Respondents/State : Mr. Ravi Kumar Bhagat, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

06/05/2019

(1) By the impugned order dated 09.08.2018, petitioner's application for grant of interim custody has been rejected by the District Magistrate, Raigarh holding that he will get himself involved in the commission of offence, against which instant writ petition (criminal) has been preferred.

(2) Counsel for the petitioner submits that impugned order is bad and unsustainable in law, therefore, the order rejecting the application for interim custody cannot be allowed to sustain.

(3) Per contra, counsel for the State would support the impugned order,

(4) I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and went through the record with utmost circumspection.

(5) A careful perusal of the impugned order would show that the learned District Magistrate, Raigarh, while passing the impugned order, has not considered the decision rendered by the Supreme Court in the matter of **Sunderbhai Ambalal Desai Vs. State of Gujarat**¹, which relates to grant of interim custody.

(6) In view of the aforesaid discussion, the impugned order dated 9.8.2018 rejecting the application for interim custody is liable to be and is hereby set aside. District Magistrate, Raigarh is directed to reconsider the application for grant of interim custody expeditiously preferably within a period of three weeks from the date of receipt of copy of this order in light of the principles of law laid down by the Supreme Court in the matter of **Sunderbhai Ambalal Desai** (supra), which has also been followed by this Court in the matter of **Hajari Kachwaha Vs. State of Chhattisgarh**²

(7) With the aforesaid observations, the writ petition (cr.) stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

1 (2002) 10 SCC 283

2 2018 (3) C.G.L.J. 41

