

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.228 of 2020

Sudhir Pandey @ Mohan, S/o late Shri Dindayal Pandey, aged about 33 years,
R/o Chitramandir Gali, Ward No.15, Deviganj Road, Ambikapur, P.S.
Ambikapur, District Sarguja (C.G.)

---- Petitioner

Versus

State of Chhattisgarh, Through the Station House Officer, Police Station
Ambikapur, District Sarguja (C.G.)

---- Respondent

For Petitioner: Ms. Sangeeta Soni, Advocate.
For Respondent / State: Dr. Veena Nair, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

14/07/2020

1. Proceedings of this matter have been taken-up through video conferencing.
2. By the impugned order, the petitioner's application under Section 457 of the CrPC has been rejected finding no merit.
3. Learned counsel for the petitioner would submit that the petitioner's vehicle has been seized in connection with the commission of the offence punishable under the Narcotic Drugs and Psychotropic Substances Act, 1985 and on an application being made for interim custody of the vehicle, the same has been rejected without adverting to the decision of the Supreme Court in the matter of Sunderbhai Ambalal Desai v. State of Gujarat¹ as such, the impugned order deserves to be set aside and the

1 (2002) 10 SCC 283

interim custody of the vehicle be given to the petitioner on supurdnama.

4. Learned State counsel supports the impugned order and opposes the petition.
5. I have heard learned counsel for the parties and considered the submissions and also went through the record with utmost circumspection.
6. The Supreme Court in Sunderbhai Ambalal Desai (supra) while dealing with the procedure for custody and disposal of vehicles laid down the following procedure: -

“15. Learned Senior Counsel Mr Dholakia, appearing for the State of Gujarat further submitted that at present in the police station premises, a number of vehicles are kept unattended and vehicles become junk day by day. It is his contention that appropriate directions should be given to the Magistrates who are dealing with such questions to hand over such vehicles to their owners or to the person from whom the said vehicles are seized by taking appropriate bond and guarantee for the return of the said vehicles if required by the court at any point of time.

16. However, the learned counsel appearing for the petitioners submitted that this question of handing over vehicle to the person from whom it is seized or to its true owner is always a matter of litigation and a lot of arguments are advanced by the persons concerned.

17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by a third person, then such vehicle may be ordered to be auctioned by the court. If the said vehicle is insured with the insurance

company then the insurance company be informed by the court to take possession of the vehicle which is not claimed by the owner or a third person. If the insurance company fails to take possession, the vehicles may be sold as per the direction of the court. The court would pass such order within a period of six months from the date of production of the said vehicle before the court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.”

7. Since the principle of law laid down by the Supreme Court in the aforesaid case has not been considered and the application for supurdnama has been rejected by the Court below, the impugned order is set aside and the Special Judge (NDPS), Ambikapur, is directed to consider the application of the petitioner under Section 457 of the CrPC afresh in accordance with law in line with the decision rendered by the Supreme Court in Sunderbhai Ambalal Desai (supra) and decide the same expeditiously.
8. The petition is allowed to the extent indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge