

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.588 of 2020**

Ramchandra Singh, S/o Late Jaishree Singh, aged about 63 years,
Caste Rajput, R/o –

1. Vimal Road Lines, Transport Nagar, Hathkhoj, Bhilai, District Durg
(C.G.)

2. Residential Address – Block No.33/1, Camp-1, Prem Nagar, Supela,
Bhilai, District Durg (C.G.)

---- Petitioner

Versus

State of Chhattisgarh, through District Magistrate, Bemetara, District
Bemetara (C.G.)

---- Respondent

For Petitioner: Mr. Shivendu Pandya, Advocate.
For Respondent / State: Mr. Ravi Kumar Bhagat, Dy. Govt. Adv.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

20/11/2020

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner is registered owner of the vehicle – Truck bearing registration No.CG-07/E-3295 which has been seized in connection with Crime No.423/2018 for the offences punishable under Sections 4 & 6 of the Chhattisgarh Agricultural Cattle Preservation Act, 2004; Sections 46, 47A, 47C, 49A, 50 & 54(1) (2)(3) of the Chhattisgarh Transportation of Animals Act, 1978; and Section 11 of the Prevention of Cruelty to Animals Act. Charge-sheet has been filed against the petitioner in the instant case. The petitioner made application for interim custody of the vehicle under Section 451 of the Code of Criminal Procedure, 1973 which has been rejected by the learned trial Magistrate as

well as revision being preferred has been affirmed by the revisional Court against which this petition under Section 482 of the CrPC has been filed.

3. Mr. Shivendu Pandya, learned counsel appearing for the petitioner, would submit that both the Courts are absolutely unjustified in rejecting the application for interim custody of the vehicle by recording a finding perverse to the record, as if the vehicle would be allowed to remain unused in the police station, it will go waste and will become junk day by day which is contrary to the principle of law laid down by the Supreme Court in the matter of **Sunderbhai Ambalal Desai v. State of Gujarat**¹.

4. Mr. Ravi Kumar Bhagat, learned Deputy Government Advocate appearing for the State / respondent would oppose the petition.

5. I have heard learned counsel for the parties and considered their submissions made herein-above and also went through the record with utmost circumspection.

6. The petitioner is though registered owner of the said vehicle, but there is material brought on record to hold that he has executed an agreement in favour of one Chand Khan, S/o Sabir Khan on 27-6-2018 and by taking notice of that fact, the learned trial Magistrate has refused to grant interim custody of the vehicle to the petitioner. In absence of any complaint from the said Chand Khan, the learned trial Magistrate has declined to grant the application which has been affirmed by the revisional Court.

7. Be that as it may, since Chand Khan, in whose favour agreement has been entered into by the petitioner alienating the vehicle,

¹ (2002) 10 SCC 283

appears to be interested party, it would be appropriate to hear Chand Khan before passing order on the said application of supurdnama. Accordingly, the impugned orders passed by the learned Magistrate and affirmed by the revisional Court are hereby set aside. The matter is remitted to the learned Chief Judicial Magistrate, Bemetara who will issue notice to the petitioner as well as to Chand Khan and then pass order on merits within one month from the date of appearance of Chand Khan. If Chand Khan does not appear on the notice then, the same will be served to him by paper publication and thereafter the order shall be passed, as the vehicle was seized and lying stationary since 16-8-2018.

8. The petition is allowed with the aforesaid observation.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma