

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.657 of 2020**

Abdul Saleem son of Abdul Rauf, aged about 52 years,
 Pro.-A.S. Trading, Gadhumariya Road, Raigarh,
 resident of Pakki Kholi, Chakradhar Nagar, Raigarh,
 District-Raigarh (CG)

---Petitioner**Versus**

State of Chhattisgarh Through the District
 Magistrate, Raigarh, District-Raigarh (CG)

---Respondent

For Petitioner	:	Mr.Manish Upadhyay, Advocate
For Respondent	:	Mr.Rahul Jha, Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

19/06/2020

- 1.Proceedings of this matter have been taken up through video conferencing.
- 2.The petitioner's application for custody of truck in question and scrap has been rejected by the trial Court as well as the revisional Court, against which, this CrMP has been filed.
3. Mr.Manish Upadhyay, learned counsel for the petitioner, would submit that the petitioner's case has not been considered and decided by the trial Court as well as by the revisinal Court in the light of principle of law laid down by the

Supreme Court in the matter of **Sunderbhai Ambalal Desai v. State of Gujarat**¹.

4. On the other hand, Mr. Rahul Jha, learned Government Advocate for the respondent/State, would support the impugned order.
5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
6. With regard to valuable articles, such, as golden or silver ornaments or articles studded with precious stones, it is submitted that it is of no use to keep such articles in police custody for years till the trial is over.
7. The Supreme Court in the matter of **Sunderbhai Ambalal Desai** (supra) has held that as under:-

"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 its owner or to the person from whom the said vehicles are seized by taking appropriate bond and the guarantee for the return of the said vehicles if required by the Court at any point of time.

1 2002(10) SCC 283

16. However, the learned counsel appearing for the petitioners submitted that this question of handing over vehicles 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 concerned persons.

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.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by 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.

19. For articles such as seized liquor also, prompt action should be taken in disposing it of after preparing necessary panchnama. If sample is required to be taken, sample may kept properly after sending it to the Chemical Analyser, if required. But in no case, large quantity

of liquor should be stored at the police station. No purpose is served by such storing."

8. It appears that the principle of law laid down by the Supreme Court in Sunderbhai Ambalal Desai (supra) has not been considered by the trial Court and rejected the application, which has been affirmed by the revisional Court.
9. In view of above, the impugned order dated 28.01.2020 passed by the Additional Sessions Judge, Sarangarh in Criminal Revision No.01/2020 and the order dated 11.12.2019 passed by the Judicial Magistrate First Class, Sarangarh in Criminal Case No.1105/2019 are hereby set aside. The matter is remitted to the trial Court to consider and dispose of the application keeping in view the principle of law laid down by the Supreme Court in Sunderbhai Ambalal Desai (supra) expeditiously. The petitioner is also at liberty to file additional documents, if any.
10. The CrMP is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-