

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 2789 of 2019**

Sanjay Ratre, S/o Chulbul Ratre, Aged about 37 years, R/o Sakra, Police Station Malkharouda, District Janjgir-Champa, Chhattisgarh.

---Petitioner

Versus

State of Chhattisgarh, through District Magistrate Jajgir, District Janjgir-Champa, Chhattisgarh.

---Respondent

For Petitioner	:- Mr. Sumit Singh, Advocate
For State	:- Mrs. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

12/02/2020

1. Petitioner's vehicle was found involved in the commission of offence under Sections 4, 6 and 10 of the Chhattisgarh Agricultural Cattle Preservation Act, 2004 for which he moved an application under Section 457 of the Cr.P.C. for release of his vehicle. The said application was rejected by the trial Magistrate by order dated 03/10/2019 in light of Section 6(1)(3) of the Act of 2004 against which the petitioner preferred a revision, but that too got rejected by impugned order dated 04/12/2019 assailing which this petition under Section 482 of the Cr.P.C. has been preferred by the petitioner.

2. Mr. Sumit Singh, learned counsel for the petitioner would submit that impugned order is liable to be set aside as it is unsustainable and bad in law and Section 6(3) of the Act of 2004 would not bar the release of petitioner's vehicle, as such, the vehicle be released and interim custody be given to the petitioner in light of Section 457 of the Cr.P.C.

3. Mrs. Astha Shukla, learned State counsel would submit that Section 6(3) of the Act of 2004 completely bars the grant of interim custody of the seized vehicle before the expiry of six months from the date of seizure or till the final judgment of the Court, whichever is earlier, as such, the impugned order is totally in accordance with law.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and perused the records carefully.

5. The constitutional validity of Sections 6(2) and 6(3) of the Act of 2004 was challenged before this Court in the matter of **Md. Aslam Chouhan and Ors. v. State of Chhattisgarh and Anr.**¹ wherein Section 451 of the Cr.P.C. and Section 6(3) of the Act of 2004 have been considered and it has been held that Section 6(3) of the Act of 2004 overrides Section

¹ AIR 2014 Chhattisgarh 1

451 of the Cr.P.C. Paragraph 46 of the judgment reads as under :-

"46. Our conclusions are as follows :-

(a) Sections 6(2) and 6(3) of the Chhattisgarh Agriculture Cattle Preservation Act, 2004 are applicable only if sub-section 6(1) is applicable. The limitation for not releasing a vehicle within a period of six months or till the conclusion of trial (whichever is earlier) is attracted only if section 6(1) is applicable. In case, the Magistrate is prima facie of the view that the agriculture cattle were not being transported for slaughtering, then the embargo contained in sections 6(2) and 6(3) are not applicable;

(b) In any case, the limitation for not releasing the vehicle is not applicable after expiry of six months or conclusion of the trial (whichever is earlier) and in that event, release of vehicle has to be considered under the provisions of the CrPC.

(c) Sections 6(2) and 6(3) of the Chhattisgarh Agriculture Cattle Preservation Act, 2004 are valid."

6. In view of the aforesaid binding principle of law, this Court has no hesitation in holding that petitioner's seized vehicle in question cannot be released before the expiry of six months from the date of seizure i.e. 23/09/2019, as such, both the Courts below are absolutely justified in rejecting

petitioner's application under Section 457 of the Cr.P.C. for release of his seized vehicle.

7. Accordingly, the present petition stands dismissed.

However, petitioner is at liberty to move the competent Court in accordance with law. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet