HIGH COURT OF MADHYA PRADESH

M.Cr.C. No. 16398/2020

(Manoj Kumar Yadav vs. State of Madhya Pradesh)

Jabalpur, Dated : 19.08.2018

Heard through Video Conferencing

Shri Priyank Awasthy, counsel for the applicant.

Shri Dilip Parihar, Panel Lawyer for the respondent-State.

Heard learned counsel for the parties finally at motion stage.

This is an application under Section 482 of Cr.P.C. filed by the applicant for custody of the vehicle Mahindra pickup bearing registration No. MP 05 G 7937 which was seized by Police Station Seoni Malwa, District Hoshangabad (MP) for illegal transportation of tobacco, pan masala, bidi, beetle nuts which were prohibited during the lockdown on account of Covid-19 pandemic. Offences punishable under Section 188 and 269 of the Indian Penal Code was registered against the applicant in crime No. 153/2020.

The application seeking custody of offending vehicle was dismissed by the Ist Additional Sessions Judge, Hoshangabad vide order dated 13.05.2020 affirming the order passed by the JMFC in Criminal Case No. 153/2020. Hence, the applicant has prayed to quash the impugned order and vehicle be released on *supurdiginama*.

The applicant is the registered owner and driver of the vehicle. The applicant claims that if the vehicle is kept in open for long time, it would be subjected to decay and damages. He further prays that he is not the purchaser of the prohibited material which was being transported. He has no intention to violate the conditions imposed by the authorities during the lockdown period.

Keeping in view the law laid down by the **Hon'ble Apex Court in the case of Sunderbhai Ambalal Desai vs. State of Gujarat (2002) 10 SCC 290** and **Umashankar Usrete vs. State of MP 2009 (2) MPLJ 11** wherein it has been held that the vehicle can be released on *supurdiginama* even if confiscation proceeding is pending before the competent Court and the facts of the case, the impugned orders are hereby set aside. It is directed that the vehicle (Mahendra Pickup) bearing registration No. MP 05 G 7937 be delivered to the applicant on *Supurdginama* subject to producing the original registration, sale-letter and such necessary documents, on satisfying the following conditions :

(i) That, the applicant shall furnish a personal bond in the sum of **Rs. 2,00,000/- (Rupees Two Lakhs Only)** with one solvent surety in the like amount to the satisfaction of the trial Court on an undertaking to produce the said vehicle before the trial Court as and when required.

(ii) That, the applicant shall get the vehicle photographed showing the registration number as well as the chassis number of the vehicle. Such photographs shall be taken in the presence of the responsible officer, who will be deputed by the trial Court and to be kept in the file of the case.

(iii) That the personal bond of the applicant as well as surety shall carry the photographs of both and the bond of surety shall further carry the photograph of person identifying him before the Court which would be with full residential proof of the surety and the person identifying him.

(iv) The applicant shall undertake not to transfer the ownership of the vehicle and shall not lease it to anyone and not make or allow any changes in it to be made so as to make unidentifiable.

(v) The applicant will not allow the vehicle to be used in any anti-social activities.

(vi) In the event of confiscation order by the Court competent, the applicant shall keep the vehicle present positively for confiscation.

With the aforesaid directions, this M.Cr.C. stands disposed of.

A copy of this order be sent to the learned trial Court concerned for necessary compliance.

Certified copy as per rules.

(Smt. Anjuli Palo)
Judge

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