

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 383 of 2021**

Tuleshwar Yadav S/o Shri Khemanidhi Yadav, Aged about 25 years, R/o Village Kadamdhodhi, Police Station Kapu, Distt. Raigarh, Chhattisgarh.

---Petitioner

Versus

State of Chhattisgarh, Through the District Magistrate, Raigarh, Distt. Raigarh, Chhattisgarh.

--- Respondent

For Petitioner	:- Mr. Dev Ashish Biswas, Advocate
For State	:- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

07/04/2021

1. The instant petition under Section 482 of the Cr.P.C. is directed against the revisional order dated 04/03/2021 by which learned revisional Court has affirmed the order dated 08/02/2021 passed by the trial Court rejecting the application of the petitioner under Section 457 of the Cr.P.C. for interim custody of his vehicle in question which has been seized for commission of offence under Section 41(1-4) of CrPC and Section 379 of IPC and during the

investigation offence under Forest Act, Kasth Chiran Evam Viniyaman, 1984, Section 5(ख), (ग) of Vyapar Viniyaman, 1969 and Section 41(ख) (ग) of Avidh Parivahan have been added by the prosecution agency.

2. Mr. Dev Ashish Biswas, learned counsel for the petitioner, would submit that petitioner's application has not been considered in its proper perspective and while deciding the said application, the imperative mandate issued by the Supreme Court in the matter of **Sunderbhai Ambalal Desai v. State of Gujarat**¹ has also not been followed, therefore, the impugned order be set aside.

3. Mr. Ravi Bhagat, learned State counsel, would support the impugned order and oppose the submission made by learned counsel for the petitioner.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the records with utmost circumspection.

5. Their Lordships of the Supreme Court in **Sunderbhai Ambalal Desai** (supra) have emphasized the need for expeditious disposal of the

¹ (2002) 10 SCC 283

application for the vehicle seized in commission of an offence. Paragraphs 15 to 18 of the report states as under :-

"15. Learned senior counsel Mr. Dholakia, appearing for the State of Gujarat further submitted that at present in the police station premises, 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.

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.

18. 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 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 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."

6. Reverting to the facts of the present case, it appears that learned trial Court as well as the revisional Court have not considered the binding precedent and the principle of law laid down by the Supreme Court in Sunderbhai Ambalal Desai (supra), therefore, the impugned order passed by the revisional Court as well as the order passed by the trial Court are hereby set aside and the matter is remitted back to the trial Court to consider it afresh within 30 days from today after hearing the parties in light of the judgment of Supreme Court in the matter of Sunderbhai (supra).

7. With the aforesaid observation/direction, the present petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet