

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**Cr.M.P. No. 460 of 2021**

- Chandrashekhar Rai S/o Shri P.N. Rai (Parasnath Rai), aged about 30 years, R/o village- Mahmand, Lalkhadan, Police Station-Torwa Bilaspur, Tahsil & district Bilaspur Chhattisgarh

-----Petitioner**VERSUS**

- State of Chhattisgarh through: Station House Officer, Police Station-Sirgitti, District Bilaspur, Chhattisgarh

-----Respondent

For Petitioner	: Mr. Samir Singh, Advocate
For Respondent- State	: Mr. Lalit Jangde, Govt. Adv.

(through Video Conferencing)**Hon'ble Shri Parth Prateem Sahu, Judge****ORDER****21/05/2021**

1. Challenge in this petition is to the order dated 10.03.2021 passed by learned 7th Additional Sessions Judge, Bilaspur, Chhattisgarh in Criminal Revision no. 38/2021, whereby the Revision Petition filed by the petitioner was dismissed.
2. Facts of the case relevant for disposal of this petition are that the truck bearing registration no. CG10-C-6713 (henceforth "offending vehicle") owned by petitioner met with an accident. Crime was registered bearing crime no. 43/2021 for offence under Section 304-A of IPC and the offending vehicle was seized on 21.01.2021. Petitioner filed an application under Section 457 of Cr.P.C. for release of offending vehicle before the Judicial Magistrate, 1st Class, Bilaspur, which came to be allowed on 03.02.2021. Learned Magistrate while allowing the application filed under Section 457 of Cr.P.C. has made pre-condition of furnishing a bank guarantee of Rs. 7 Lac or to deposit in cash and ordered for granting release of offending vehicle under certain other

conditions. Order dated 03.02.2021 was put to challenge by petitioner in a Revision Petition on the ground that the condition imposed by learned Magistrate of furnishing bank guarantee of Rs. 7 Lac or to deposit cash of Rs. 7 Lac is stringent and harsh. Petitioner is ready to furnish surety for taking custody of the offending vehicle owned by him. Learned Revisional Court considering the provisions under Rule 240(A) of Chhattisgarh Motor Vehicles Rules, 1994, dismissed the Revision Petition.

3. Mr. Samir Singh, learned counsel for the petitioner submits that the learned Courts below have not taking into consideration the model of offending vehicle which is registered on 12.01.2012, it is nine-years old. He further submits that due to spread of Covid-19 pandemic, business of transportation is also hampered, the petitioner will not be able to furnish a huge bank guarantee of Rs. 7 Lac or to deposit cash, no purpose will be served if the offending vehicle is kept standing in the police station in open sky under sunlight and rains, offending vehicle may be damaged and may not be useful and benefit to any of the parties. He submits that the offending vehicle may be released in favour of the petitioner/ owner upon furnishing a surety of Rs. 4 Lac.
4. Mr. Lalit Jangde, learned Government Advocate representing the State submits that the learned courts below have taken into consideration the provisions of Section 240-A of Chhattisgarh Motor Vehicles Rule, 1994 and have made pre-condition of furnishing bank guarantee of Rs. 7 Lac, the impugned order does not call for any interference.
5. I have heard learned counsel for the respective parties.
6. Petitioner has filed copy of registration certificate of the offending vehicle as Annexure P-3, perusal of which would show that the date of registration of vehicle is 12.01.2012. It is evident that offending vehicle is nine-years old. Looking to the facts and circumstances of the case,

particularly, the Covid-19 pandemic situation, imposition of such huge bank guarantee of Rs. 7 Lac or deposit of cash of Rs. 7 Lac will be harsh upon the petitioner and in fact may lead to refusal of grant of relief as sought for ie. release of vehicle in question, no purpose will be served if the offending vehicle is kept standing in the police station under the open sky exposed to sunlight and rain. Except deteriorating the condition of vehicle, no-one would be benefited by keeping the offending vehicle in police station under such conditions.

7. The Hon'ble Supreme Court in the case of **Ramesh Chand Jain v. State of Haryana and another** reported in **(2007) 15 SCC 126** has considered the identical issue of releasing of offending vehicle which is involved in a motor accident and held thus:

“6. ...The dispute concerning civil liability of the registered owner towards the loan obtained from the bank on guarantee bond furnished jointly by Respondent 2 and his wife was wholly irrelevant in the criminal case pending for trial before the Magistrate for alleged offence under the provisions of the Motor Vehicles Act and other penal provisions, if any.

7. For the aforesaid reason we allow this appeal. The impugned order of the Sessions Court dated 11-2-2000 and of the High Court confirming the same by order dated 14-1-2002 to the extent of imposing condition on the appellant to get the guarantors exonerated towards loan obtained from the bank on the vehicle is hereby set aside. It is directed that the seized truck in question be released to the appellant registered owner on his furnishing security in the sum of rupees four lakhs to the satisfaction of the trial Magistrate.”

8. Facts of the case at hand are also that the offending vehicle was involved in a motor accident, offence under Section 304-A was registered and offending vehicle was seized.
9. For the foregoing reasons, the impugned order passed by the learned Sessions Court is set aside. Order passed by learned Magistrate to the extent of imposing condition of furnishing a bank guarantee of Rs. 7

Lac or deposit of cash of Rs. 7 Lac is hereby modified. It is directed that the seized truck in question (bearing registration no. CG10-C-6713) be released and to be given in custody of petitioner/ registered owner on his furnishing security in the sum of Rs. 5 lac and one surety in the like sum to the satisfaction of the concerned Magistrate. Other conditions ie. conditions no. 1 to 4 for release made by the learned Magistrate shall remain intact.

10. Resultantly, Petition is allowed.

Sd/-
(Parth Prateem Sahu)
Vacation Judge

Pawan