

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.1059 of 2020

Lakhan Lal Patel, S/o Shri Homnath Patel, aged about 30 years, R/o Village Maluha, Thana & Tahsil Kasdol, Civil & Revenue Distt. Balodabajar-Bhatapara (C.G.)

---- Petitioner

Versus

State of Chhattisgarh, Through District Magistrate Balodabajar, Distt. Balodabajar-Bhatapara (C.G.)

---- Respondent

For Petitioner: Mr. Sunil Sahu, Advocate.

For Respondent/State: -

Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/02/2021

1. The petitioner's vehicle was found involved in commission of offence punishable under Sections 9, 44(1)(a), 44(3), 49 & 51 of the Wild Life (Protection) Act, 1972 and when he applied for interim custody of vehicle, that has been rejected by the learned trial Magistrate and further, the revisional Court has also rejected the revision preferred against that order against which this petition under Section 482 of the CrPC has been preferred.
2. Mr. Sunil Sahu, learned counsel appearing for the petitioner, submits that both the Courts below are absolutely unjustified in holding that interim custody of the vehicle seized for commission of offence under the provisions of the Wild Life (Protection) Act, 1972, cannot be granted. He relies upon the Full Bench decision of the M.P. High Court in the matter of **Madhukar Rao v. State of M.P. and others**¹ in which their Lordships have considered the question

and it has been held that any property including vehicle seized on accusation or suspicion of commission of an offence under the Act can on relevant grounds and circumstances, be released by the Magistrate pending trial in accordance with Section 50(4) read with Section 451 of the CrPC.

3. Mr. Ravi Kumar Bhagat, learned State counsel, opposes the petition and supports the impugned orders.
4. This Court in W.P.(Cr.)No.57/2014 (Mohammad Shoaib and another v. The State of Chhattisgarh and three others), decided on 5-4-2016, has relied upon the decision of the M.P. High Court in **Madhukar Rao** (supra) and held as under: -

“(17) ... In the matter of **Madhukar Rao** (Supra), it was held that any property including vehicle seized on accusation or suspicion of commission of an offence under the Act can on relevant grounds and circumstances, be released by the Magistrate pending trial in accordance with Section 50(4) read with Section 451 of the Code of Criminal Procedure. Thus an application under Section 451 of the Cr.P.C. before the jurisdictional Magistrate is maintainable for interim custody of questioned vehicle. ...”

5. In that view of the matter, the order of the trial Magistrate affirmed by learned revisional Court is set aside and the matter is remitted to the trial Magistrate to consider the application of the petitioner for grant of interim custody of the vehicle and pass order afresh in accordance with law within 15 days from the date of receipt of a copy of this order.
6. The petition is allowed to the extent indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge