

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPCR No. 390 of 2020**

Shiv Kumar Kurre S/o Shri Gokul Kumar Kurre, Aged about 22 years, R/o Laxmipur, Police Station Kotwali, Tahsil and Distt. Raigarh, Chhattisgarh.

---Petitioner**Versus**

- 1.State of Chhattisgarh, Through the Collector, Raigarh, Tahsil and Distt. Raigarh, Chhattisgarh.
- 2.The Superintendent of Police Raigarh, Tahsil and Distt. Raigarh, Chhattisgarh.
- 3.Station House Officer, Police Station Kotwali Raigarh, Tahsil and Distt. Raigarh, Chhattisgarh.

--- Respondents

For Petitioner	:-	Mr. Abhishek Saraf, Advocate
For State	:-	Mr. Animesh Tiwari, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****08/04/2021**

- 1.Proceedings of this matter have been taken up through video conferencing.
- 2.The petitioner herein filed an application for interim custody of his vehicle seized for commission of offence under Section 34(2) and 59(A) of the Chhattisgarh Excise Act, 1915, which

has been rejected by the Collector, Raigarh vide impugned order dated 28/07/2020, against which this writ petition has been preferred by him.

3. I have heard learned counsel for the parties and considered their submissions and gone through the record with utmost circumspection.

4. Their Lordships of the Supreme Court have laid down the following principle of law for releasing the seized vehicle on interim custody in the matter of **Sunderbhai Ambalal Desai v. State of Gujarat**¹, which 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."

5. In view of the aforesaid binding principle of law laid down by the Supreme Court in Sunderbhai (supra), the impugned order is hereby set aside and the Collector, Raigarh is directed to consider the case of the petitioner for grant of interim custody of the vehicle as noticed herein-above and pass an order within 45 days from the date of receipt of a copy of this order.

6. With the aforesaid observation, the writ petition stands finally disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet