

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 1464 of 2020**

- Ramayan Yadaw S/o Ganga Ram Yadaw Aged About 51 Years R/o 16, Ward No. 02, Tikuliya, Tarenga, District Balodabazaar Bhatapara Chhattisgarh.

**----- Petitioner**

**Versus**

- State of Chhattisgarh Through Police Station AJAK, Mungeli Chhattisgarh.

**----- Respondent**

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For Petitioner :- Mr. Anchal Kumar Matre, Adv.  
For State/Respondent :- Mr. Suyash Dhar, PL

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**Hon'ble Shri Justice Sanjay K. Agrawal**  
**Order on Board**

**26/02/2021**

1. The present petition is directed against the order dated 13.10.202 passed by the learned Special Judge (SC/ST) by which petitioner's application under Section 457 of the Cr.P.C. for grant of interim custody of the vehicle in question has been rejected.

2. Learned counsel for the petitioner would

submit that the petitioner's application has been rejected without following the decision of the Supreme Court in the matter of **Sunderbhai Ambalal Desai v. State of Gujarat**<sup>1</sup>.

3. On the other hand, learned State counsel would support the impugned order and oppose the submissions made by learned counsel for the petitioner.

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

5. A careful perusal of the impugned order would show that the concerned Special Judge (SC/ST) did not consider the decision of the Supreme Court in the case of *Sunderbhai Ambalal Desai* (supra) in deciding the petitioner's application, in which, with regard to grant of custody of the vehicle, it has been held as under:-

“15. Learned Senior Counsel Mr. Dholakia,

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<sup>1</sup> 2002(10)SCC 283

appearing for the State of Gujarat further submitted that at present in the police station premises, a 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 their owners or to the person from whom the said vehicles are seized by taking appropriate bond and 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 the vehicle 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 persons concerned.
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 the 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 a 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 the 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 the 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. In view of that the order passed by the learned Special Judge (SC/ST), Mungeli, is hereby set aside and matter is remitted to the learned Special Judge (SC/ST), Mungeli, to consider it afresh for disposal of the petitioner's application for interim custody of the vehicle in question in the light of the decision rendered by the Supreme Court in the case of *Sunderbhai Ambalal Desai* (supra) within 15 days from the date of receipt of copy of this order.

7. With the aforesaid observation/direction, the instant petition stands finally disposed of.

**Sd/-**  
**(Sanjay K. Agrawal)**  
**Judge**

Ankit