

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRMP No. 1445 of 2021

- Manoj Sahu, S/o Gareeb Ram Sahu, Aged About 30 Years, R/o Village Bafra, Out Post Jalbandha, Police Station & Tehsil Khairagarh, District Rajnandgaon Chhattisgarh. (Accused Roshan Sahu's Name is mentioned in the order sheet of the court below).

---- **Petitioner**

Versus

- State of Chhattisgarh Through The Police Station Khairagarh, District Rajnandgaon Chhattisgarh.

---- **Respondent**

For Petitioner	:	Mr. Anuroop Panda on behalf of Mr. S.S. Baghel, Adv.
For State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Smt. Justice Rajani Dubey

Order on Board

16/12/2021

1. Heard.
2. Petitioner has preferred this petition against the impugned order dated 27.08.2021 passed by Special Sessions Trial No. 01/2021 by the learned Additional Sessions Judge, Khairagarh, District- Rajnandgaon (C.G.) whereby the learned trial court rejected the application filed by the petitioner under Section 451 of Cr.P.C.
3. The prosecution story in brief is that the brother of the petitioner namely Roshan Sahu committed forceful intercourse with the prosecutrix on the pretext of marriage. During investigation, it was found that brother of the petitioner took the prosecutrix to his village Bafra on the motorcycle bearing No. CG 08 AE 1782 which was seized by the police.

4. Learned counsel for the petitioner submits that the petitioner is not an accused in the said crime, in fact the motorcycle of the petitioner bearing No. CG 08 AE 1782 has been seized because of the reason that brother of the petitioner was arrested in connection with Crime No. 478/2020 by the Police of Police Station Khairagarh and the accused took the motorcycle belonging to the petitioner without his knowledge and permission. He further submits that the seized vehicle in question is lying in the police station and if the same is not given to the petitioner, its condition would be deteriorated, rendered useless and the possibility of theft of the parts of vehicle cannot be ruled out and the petitioner was the registered owner of the said motorcycle therefore he is entitled to get the possession of the said motorcycle.
5. On the other hand, State counsel opposes the application.
6. Perusal of the order dated 27.08.2021 and considering the fact that the vehicle is lying at the disposal of authorities or at police station and if it is kept in the police station it must be occupying space or is prone to cause natural decay and may lose its road worthiness when kept in stationery position. In facts of the case following the law laid down in case of General Insurance Council and others Vs. State of Andhra Pradesh and others reported in (2010) 6 SCC 768 wherein the earlier principles laid down in case of **Sunderbhai Ambalal Desai Vs. State of Gujarat** reported in (2002) 10 SCC 283 was reiterated, the order of rejection of application for interim custody cannot be allowed to remain. Consequently, applying the said principles, it is directed that the vehicle be released in favour of the petitioner by way of interim measure, if the confiscation proceedings have not been concluded till date of production of this order.
7. In the result, order dated 27.08.2021 is quashed and the petition is allowed. The vehicle is directed to be released to the petitioner on the following conditions:-
 1. Before release of vehicle, proper panchnama be prepared.

2. Photographs of vehicle should be taken and bond should also be produced that the article would be produced if required at the time of trial
3. Proper security i.e. personal bond of Rs. 1,00,000/- and like sum of local surety be obtained before release of vehicle.

Sd/-
(Rajani Dubey)
Judge