



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (CIVIL) NO. 2577 OF 2023

- Rajesh Yadu, S/o Ramesh Yadu, aged about 28 years, R/o Village Ravan, Police Station Suhela, District Balodabazaar - Bhatapara (C.G.)

... Petitioner(s)

versus

1. State of Chhattisgarh, through: Collector, District Balodabazar-Bhatapara (C.G.)
2. Assistant Commissioner, Office of District Excise Officer, District Balodabazar-Bhatapara (C.G.)
3. Sangharsh Tiwari, Head Constable, Police Station Bhatapara (Rural), District Balodabazar-Bhatapara (C.G.)

... Respondent(s)

For Petitioner	: Mr. Prakash Mishra, Advocate.
For Respondent-State	: Mr. Aditya Tiwari, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

[16/06/2023]

1. The present Writ Petition has been filed by the Petitioner against the rejection of an application for releasing of the motorcycle of the Petitioner on Supurdnama, vide Order dated 24.5.2023 (Annexure P-1) passed by Respondent No.1.

2. Brief facts of the case are that the motorcycle HF Delux (Self), bearing Registration No.CG22-J-3381, owned by the Petitioner, was seized in an offence involving the Petitioner himself. The offence registered against the Petitioner is that of carrying 5.4 bulk liters of foreign liquor (Goa). The Petitioner is being prosecuted for the said offence in Crime No.82/2023 registered at Police Station Bhatapara (Rural), District Balodabazar-Bhatapara. The said motorcycle was seized on 4.2.2023. The Petitioner has been released on bail as early as on 10.2.2023 and the trial is going on. Meanwhile, the District Collector has initiated confiscation proceeding and for whom the Petitioner had moved an application for releasing of the said motorcycle on Supurdnama, which has been rejected vide the impugned Order dated 24.5.2023.



3. Learned Counsel for Petitioner submits that the Petitioner is the registered owner of the seized vehicle which is lying idle in an open place since 4.2.2023 and no fruitful purpose would be served if the vehicle remains idle in the custody of the police exposed to the extreme weather conditions. The vehicle would get decayed day by day and would further deteriorate by passage of time to the extent that it would become unusable after some time. Therefore, in the interest of justice, the vehicle may be released to the Petitioner.

4. Learned Counsel for Petitioner further submits that the evidence in the instant case is still not concluded and therefore a considerable period of time is likely to be consumed in the conclusion of the trial which necessitates the ground of Supurdnama of the seized vehicle. Learned Counsel for Petitioner submits that the Petitioner undertakes to give any sort of conditions required till the finalisation of the criminal case or, for that matter, any other proceeding initiated by the authorities.

5. Learned State Counsel, however, opposes the claim of the Petitioner on the ground that the nature of offence said to have been committed in which the seized vehicle is involved is quite serious in nature and that the impugned Order rejecting the application for release of the seized vehicle on Supurdnama does not warrant any interference by this Court as the reasons assigned for rejecting the said application are just and proper.

6. Heard the contentions put forth on either side and perused the record of the case. The Hon'ble Supreme Court in the case of "**Sunderbhai Ambalal Desai Vs. State of Gujrat**" reported in **2002 (10) SCC 283**, has laid down the guiding principles for releasing the vehicle seized by the police. For ready reference paragraphs 7 and 17 of the said judgment are being reproduced herein below:-



“7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely:

1. owner of the article would not suffer because of its remaining unused or by its misappropriation;
2. court or the police would not be required to keep the article in safe custody;
3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and
4. this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.”

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17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the polices 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.”

7. Similar stand has also been taken by the Hon'ble Supreme Court in the case of "**Multani Hanifbhai Kalubhai Vs. State of Gujrat & Another**"

reported in **2013 (3) SCC 240**, wherein the Apex Court has expressed that it is not advisable to keep the seized vehicle in the police station in open condition which is prone to natural decay on account of weather conditions for a long period.

8. In view of the aforesaid legal position as it stands, considering the fact that the Petitioner is the registered owner of the seized vehicle and also taking note of the fact that the trial is going on, no useful purpose would be served if the seized vehicle is allowed to get exposed in the extreme weather conditions at the police station. On the contrary, if the vehicle can be released to the Petitioner subject to certain conditions he can use it so that the vehicle does not become junk.



9. Thus, for the foregoing reasons, the impugned Order dated 24.5.2023 rejecting the application for release of the seized vehicle on Supurdnama is not proper and the same is hereby set-aside/quashed.

10. Accordingly, it is directed that the seized vehicle belonging to the Petitioner, i.e., motorcycle HF Delux (Self) bearing Registration No.CG22-J-3381, be released to the Petitioner upon his furnishing an appropriate bond and guarantee to the satisfaction of the concerned Court below for return of the said vehicle, if required at any point of time. In the bond, he shall give an undertaking that he shall not change the ownership of the vehicle; nor shall he change the colour of the vehicle neither shall he create a third party right or interest over the said vehicle. He shall also undertake that he shall produce the vehicle as and when required by the prosecution during the course of investigation, trial and even at the appellate stage. He shall further undertake to produce the vehicle to any competent authority under different statutes as and when required. So far as surety is concerned, it shall be equal to the present day value of the vehicle seized or to the satisfaction of the concerned Trial Court.

11. With aforesaid observations, the Writ Petition stands allowed and disposed of accordingly.

**Sd/-
(P. Sam Koshy)
Judge**