
(2013) 12 MP CK 0066
In the Madhya Pradesh High Court
Case No : M.Cr.C. No. 14978 of 2013

Ganga Sagar Tiwari

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 06-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0066

Hon'ble Judges : Subhash Kakade, J

Bench : Single Bench

Advocate : K.S. Baghel, for the Appellant; Neeraj Ashar, Panel Lawyer for the State, for the Respondent

Final Decision : Disposed Off

Judgement

Subhash Kakade, J.—Heard finally with the consent of the learned counsel for the parties. This petition has been filed u/s 482 of the Cr.P.C. being aggrieved by order dated 24/10/2013 passed by the Chief Judicial Magistrate, District Sidhi (M.P.) in Forest Crime No. 6784/10, whereby the application filed by the applicant u/s 457 of the Cr.P.C. for interim custody of offending vehicle bearing number MP 53 GA 2243 (TATA 407) has been dismissed.

2. The facts, in short, are that an offence has been registered vide Forest Crime No. 6784/10 before Chief Judicial Magistrate, Sidhi for the offence punishable under Sections 27, 29, 39 & 51 of Wild Life (Protection) Act and Sections 2, 41 & 52 of the Forest Act. The applicant has filed an application u/s 457 of the Cr.P.C. for releasing the offending vehicle on interim custody on Supurdginama, which has been dismissed by learned Magistrate.

3. Learned counsel for the applicant has submitted that the dismissal of the application is illegal on the basis of fact that the property is seized for committing an offence under the Wild Life (Protection) Act or the Forest Act, because an information regarding confiscation proceedings has been received from Forest Officer, therefore, trial Court is not in a position to pass an order for releasing the

offending vehicle on interim custody on Supurdginama.

4. Learned counsel for the applicant has submitted that this case is squarely covered by the earlier decision of Full Bench of this Court passed in the case of Madhukar Rao Vs. State of M.P. - 2000 (1) MPLJ (F.B.) 289 and aforesaid dictum of Full Bench of this Court has been affirmed by the apex Court in the case of State of M.P. and Others Vs. Madhukar Rao, .

5. Learned Panel Lawyer for the respondent/State has supported the impugned order passed by learned Chief Judicial Magistrate, Sidhi.

6. Consequently, in view of aforesaid, this petition is allowed. Impugned order dated 24/10/2013 is hereby set aside. The offending vehicle bearing Number MP 53 GA 2243 (TATA 407) is directed to be released on interim custody on furnishing a Supurdginama by the applicant in a sum of 3,00,000/-(Rupees Three Lacs) with one surety in the like amount to the satisfaction of Chief Judicial Magistrate, Sidhi, till the disposal of Criminal Case arising out of Forest Crime No. 6784/10 as well as till the final disposal of confiscation proceedings pending in the Forest Department, if any, on the following terms and conditions:-

1. The applicant will not transfer, sale, alienate or create any third party interest with respect to vehicle bearing number MP 53 GA 2243 (TATA 407).

2. The applicant will not change the colour of vehicle bearing number MP 53 GA 2243 (TATA 407).

3. The applicant shall produce the vehicle bearing number MP 53 GA 2243 (TATA 407) as and when required by the trial Court during trial till the disposal of Criminal Case arising out of Forest Crime No. 6784/10 as well as by the confiscating authority till the final disposal of confiscation proceedings pending in the Forest Department, if any.

7. Accordingly, this petition is disposed of with the aforesaid directions. Certified copy as per rules.