

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 519 of 2015

Shekh Samsuddin S/o Sheikh Imamuddin by caste – Musalman, Aged About 20 years R/o Village & Post Pirda, Thana Basna, Tah. Pithoura, Civil And Rev. Distt. Mahasamund Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh Through The District Magistrate Mahasamund, Distt. Mahasamund Chhattisgarh.

---- Respondent

For Petitioner – Shri Sunil Sahu, Advocate.
For Respondent/State – Shri Arvind Shukla, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

31/07/2015

1. Heard.
2. Case diary is produced.
3. This is a petition against the order dated 4/05/2015 passed by the Additional Sessions Judge, Saraipali in Criminal Revision No.6/2015.
4. Brief facts of the case was that the petitioner was intercepted while he was carrying iron scrap in his vehicle Tata 407 and he was arrested by application of Section 41 (1-4) of Cr.P.C. and 379 of IPC. It was stated that thereafter the documents were called for from the petitioner but he could not produce any documents. Eventually after some time charge sheet was filed under section 403 of IPC against petitioner.
5. Learned counsel for the petitioner submits that when application to take custody of the scrap was filed, same was rejected by the trial court without any rhyme or reason which was further affirmed by

the Additional Sessions Judge and therefore he further submits that holding scrap in Police Station it will lose its value and also quality and no purpose would be served to keep the scrap in Police Station. He further submits that charge sheet has been filed under Section 403 of IPC but the owner of the material has not been identified, therefore even according to the police the owner of material is not traced and in the mean while if the scrap is kept in open sky it will lose its value.

6. Per contra, learned State counsel opposes the same.
7. Case diary in this case was produced. It reveals that charge sheet under section 403 IPC has been filed. Perusal of the case diary would show that no sincere effort has been made by the police to find out the owner, if any, and further no ownership has been claimed by any third person with respect to the property.
8. In the circumstances, in the opinion of this court taking into nature of the property, no purpose would be served to keep the same in police custody considering the nature of the goods. Taking into account the charge sheet was already been filed u/s 403 IPC and the owner of goods if any other than petitioner has not been traced keeping the material at open space would not be any manner would be beneficiary both to the prosecution as also the accused. The parties before this court submits that the value of property is nearly Rs.60,000/-.
9. So after careful consideration of case diary and charge sheet, I am of the opinion that petition is liable to be allowed. Accordingly, petition under Section 482 of Cr.P.C. is allowed. Petitioner on submitting a bond and surety of Rs.65,000/- custody of the goods

be handed over to the petitioner. Petitioner is directed to keep the property in his custody and shall not change nature of the goods till disposal of the criminal case.

10. With such direction, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
JUDGE

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