

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA  
ON THE 26<sup>th</sup> OF APRIL, 2024  
MISC. CRIMINAL CASE No. 15466 of 2024**

**BETWEEN:-**

**KANHAIYA NATH S/O MOHAN NATH, AGED ABOUT 33 YEARS, OCCUPATION: BUSINESS R/O VILLAGE KUNDIKHEDA, TEHSIL JHARADA, ANUBHAG MAHINDRAPUR, UJJAIN, DISTRICT UJJAIN (MADHYA PRADESH)**

**.....APPLICANT**

***(BY SHRI MOHAN LAL SHARMA - ADVOCATE)***

**AND**

- 1. STATE OF MADHYA PRADESH THROUGH ITS POLICE STATION, RAISEN, DISTRICT RAISEN (MADHYA PRADESH)**
- 2. UPPER COLLECTOR, RAISEN, DISTRICT RAISEN (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI K.S. BAGHEL – GOVERNMENT ADVOCATE)***

*This application coming on for admission this day, the court passed the following:*

**ORDER**

This application under Section 482 of Cr.P.C. has been filed against order dated 22.03.2024 passed by Sessions Judge, Raisen in Criminal Revision No.8/2024 arising out of order dated 12.03.2024 passed by Chief Judicial Magistrate, Raisen in Crime No.556/2023 registered at Police Station Raisen for offence under Section 11(1)(d) of Prevention of Cruelty to Animals Act, 1960, under Sections 4, 6, 9 of M.P. Govansh Vadh Pratisheh Adhiniyam, 2004, under Sections 4, 6 of

M.P. Agricultural Cattle Preservation Act, 1959 and under Section 66/192 of Motor Vehicle Act.

2. It is submitted by counsel for applicant that applicant is the registered owner of Mahindra Pickup bearing registration No.MP-13-GB-6311. The said vehicle was rented out to Mukesh with a clear rider that in case if any legal proceedings are instituted on account of illegal work done by him, then he would be responsible for the same. It is submitted that on 05.11.2023 an information was received that one pickup which is parked by the side of the road is carrying 8 cattle i.e. 3 cows and 5 calves and their mouth and legs are tied. The vehicle as well as cattle were seized. It is true that confiscation proceedings have been initiated but there is no bar for release of vehicle for Trial Court merely on the ground that confiscation proceedings have been initiated. It is submitted that once cattle were being transported without knowledge and permission of applicant then *prima facie* he is not guilty of illegal act of Mukesh. To buttress his contentions, counsel for applicant has also relied upon an order passed by coordinate Bench of this Court in the case **Milind vs. State of Madhya Pradesh** decided on **02.09.2022** in **MCRC No.41986/2020** and it is submitted that in the light of judgment passed by Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat**, reported in **AIR 2003 SC 638**, the vehicle should be released.

3. Heard learned counsel for petitioner.

4. It is the case of applicant that it was not within his knowledge that offence is being committed by Mukesh.

5. In the considered opinion of this Court, it is difficult for this Court to give any finding in that regard because confiscation proceedings are still pending. Even otherwise the rights of applicant are protected by

virtue of an agreement executed between him and Mukesh. As per clause 5 of said agreement, Mukesh was made liable for any legal proceedings on account of any illegal work done by him. If the vehicle stands confiscated, then applicant can recover the value of the vehicle as well as loss which he may suffer from Mukesh but since State was not a party to the agreement, therefore, the said agreement cannot be made applicable to State authorities.

6. Since rights of petitioner are already protected under the Rent Note executed between petitioner and Mukesh, this Court is of considered opinion that in case if any damage is caused to vehicle on account of parking in open area, still applicant would not suffer any irreparable loss and he would be entitled to recover the value of vehicle as well as loss sustained by him from Mukesh.

7. Considering the totality of facts and circumstances of the case, this Court is of considered opinion that no case is made out warranting interference.

8. The application fails and is hereby **dismissed**.

**(G.S. AHLUWALIA)**  
**JUDGE**