



MHCH170008552022

CRLM.A.NO.148/2022

Aruna Vs. State

ORDER BELOW EXH.1

Passed on 22nd December, 2022

This is an application under Section 457 of Cr.P.C.

02. Applicant submits that, she is the owner of wheat seized by the Chimur police station in Crime No.211/2022. The said wheat is lying stationary in the police station. The wheat is likely to be damaged if kept lying for indefinite period. Therefore, interim custody be given to the applicant.

03. Say of A.P.P. as well as Investigation Officer was called. APP submitted that suitable order may kindly be passed. The Investigation Officer has filed his say (Exh.5) and submitted that, he has no objection to release the seized wheat in favour of the applicant on supratnama.

04. I have heard the submissions of learned advocate for the applicant and learned A.P.P.

05. Perusal of say Exh.5 of I.O. shows that 25 bags of wheat weighing 40 kg each has been seized by the police in the instant crime. Applicant has submitted that the Hon'ble Civil Judge Senior Division, Warora in Spl. Dar. No.31/2010 has given possession of survey no.381 alongwith standing wheat crops which is situated at Chimur Taluka Chimur. When the applicant rushed to take possession of the said property alongwith standing wheat crops at that time she realized that there was theft of wheat crop. Therefore, she gave FIR No.0211/2022 under setion 379, 427 read with 34 of Indian Penal Code. Applicant has produced on record

copy of order passed below Exh.153 in Spl.Dar.No.31/2010 at list Exh.3/1, perusal of it shows that the Hon'ble Civil Judge Senior Division, Warora issued possession warrant to delever the possession survey No. 381 situated at Chimur to D.H. alongwith standing crops. Therefore, it seems that the applicant is the Hon'ble of seized wheat. Moreover, APP and Investigating officer have not disputed ownership of applicant regarding the seized wheat. So also accused Ravindra Motiramji Potdukhe has filed pursis Exh.6 stating that he has no objection to release the seized wheat in favour of the applicant on supratnama. As per settled law when there is no dispute about the ownership of the seized muddemal it is desirable to return it to the owner. There is no claimant except the applicant. Further, seized wheat is perishable nature and would deteriorate if remain in the police station in unattended condition for a long period.

06. Considering the facts and nature of the offence I am of the view that, the said wheat is no more required for the investigation purpose. If the wheat allowed to be retained at the police station without any care and subjected to rain and sun, it's condition will deteriorate. Hence, considering the above discussed aspects, in my considered view, the applicant is entitled for interim custody of seized wheat. Hence, I proceed to pass following order.

ORDER

- (1) Application is allowed.
- (2) The seized 25 bags of wheat weighing 40 kg each in Crime No.211/2022 registered with Chimur police station, be given in the interim custody of the applicant namely Aruna Shamrao Patil, on executing an indemnity bond of Rs.50,000/-(Rs. Fifty thousands only) on the following conditions.

- (3) Police officer is directed to prepare the condition panchnama of seized wheat and take its photographs prior to release the same and counter signed by the applicant at applicant's cost and submit it on record.
- (4) Applicant shall furnish undertaking that she shall produce the wheat or deposit the amount of the said wheat in this court, if any other claimant succeeds in his/ her claim in respect of the seized wheat.
- (5) Copy of this order be attached with remand paper/chargesheet.

Place : Chimur
Date : 22.12.2022

(S.M. Qadri)
Judicial Magistrate (F.C.),
Chimur, District Chandrapur