CASE NO.:
Appeal (crl.) 1484 of 2003
Special Leave Petition (crl.) 3046 of 2003

PETITIONER:
Section Forestor & Anr.

RESPONDENT:
Mansur Ali Khan

DATE OF JUDGMENT: 11/12/2003

BENCH:
N.Santosh Hegde & B.P.Singh

JUDGMENT:
J U D G M E N T

SANTOSH HEGDE,J.

Heard learned counsel for the parties.

Leave granted.

This appeal by the State of Karnataka is preferred against a judgment of the High Court of Karnataka at Bangalore made in Criminal Revision Petition No.4/2003 whereby the High Court directed that a vehicle bearing Registration No.KA-22M-3866 involved in a forest offence be released in favour of the respondent herein, on condition that the said respondent gives an indemnity bond for Rs.50,000/- to the satisfaction of the Authorised Officer, as also with a further condition that the vehicle in question shall not be alienated till the criminal case is disposed of and the same produced as and when required by the trial court.
The learned counsel appearing for the appellants-State contends that the impugned order as to the release of the vehicle on the facts and circumstances of this case is directly opposed to the judgment of this Court in the case of State of Karnataka vs. K.Krishnan [2000 (7) SCC 80]. The learned counsel for the respondent contended that the order under appeal is a discretionary order made on the basis of equity mainly because of the fact that the vehicle in question was under seizure for over a period of one year and was rusting whereby the value of the vehicle was diminishing day by day, hence, no purpose would be served in keeping such vehicle in unused condition. Therefore, this Court under Article 136 of the Constitution should not interfere with the impugned order.
We see from the order of the High Court though the High Court noticed that in various decisions of this Court in regard to the release of vehicles used for committing forest offences ought not to be released as a matter of course, still the High Court by the impugned order came to the conclusion that these directions issued by this Court are applicable only in cases which can be disposed of expeditiously and in cases where there is no such expeditious disposal of the proceedings, appropriate order of interim release can be made on conditions deemed fit by the court or the authority, as the case may be.
While in regard to the power of the High Court to release the vehicle in a given set of facts cannot be disputed, this Court as noticed by the High Court itself has laid down

that such power can be exercised for good reasons and in exceptional cases only. In the instant case, the only reason given by the High Court for the release of the vehicle is on the ground that same was in the custody of the officers for more than one year and there was no likelihood of immediate disposal of the pending case. This by itself, in our opinion, would not be a ground for the release of the vehicle because this would be the case in almost all such cases involving forest offence. In exceptional cases, the act itself has made a provision for interim release of the vehicle on the existence of certain conditions mentioned therein. In the absence of such conditions being fulfilled, we do not think that the High Court as a matter of course could pass mechanical orders releasing such vehicles.

Taking into consideration the object of the Forest Act and other relevant considerations, this court in the above said case of State of Karnataka vs. K.Krishnan (supra) while allowing the said appeal held:

"The courts cannot shut their eyes and ignore their obligations indicated in the Act enacted for the purposes of protecting and safeguarding both the forests and their produce. The forests are not only the natural wealth of the country but also protector of human life by providing a clean and unpolluted atmosphere. We are of the considered view that when any vehicle is seized on the allegation that it was used for committing a forest offence, the same shall not normally be returned to a party till the culmination of all the proceedings in respect of such offence, including confiscatory proceedings, if any. Nonetheless, if for any exceptional reasons a court is inclined to release the vehicle during such pendency, furnishing a bank guarantee should be the minimum condition. No party shall be under the impression that release of vehicle would be possible on easier terms, when such vehicle is alleged to have been involved in commission of a forest offence. Any such easy release would tempt the forest offenders to repeat commission of such offences. Its casualty will be the forests as the same cannot be replenished for years to come."

From the above dictum of this Court, we find when a vehicle is involved in a forest offence the same is not to be released to the offender or the claimant as a matter of routine till the culmination of the proceedings which may include confiscation of such vehicle.

Release of such vehicle during the pendency of the proceedings though permissible, same should be done for good reasons and that also upon a minimum condition of furnishing bank guarantee as contemplated under the Act itself.

In the instant case we find the High Court has proceeded merely on the basis of a likely delay in disposal of the criminal case which by itself in our opinion is insufficient for releasing the vehicle in question.

For the reasons stated above, this appeal succeeds. The

impugned order of the High Court is quashed and the appeal is allowed

JUDIS