

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No. 845 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Manoj Mohan, Advocate, for the applicant. Mr. V.K. Gemini, Deputy Advocate General, for the State of Uttarakhand. The present C-482 Application has been preferred by the present applicant being aggrieved against the impugned order dated 10th April, 2023, as it was passed by the Court of Special Judge (NDPS), Udham Singh Nagar, whereby, by virtue of the impugned order, the release application preferred by the applicant has been rejected for releasing the case property, i.e., three wheeler tempo bearing registration No. UK04TB2001, which was seized by Thana Police Station Pulbhatta, Udham Singh Nagar, for its alleged involvement in the commission of the offence, which stood registered by way of an FIR, being FIR No. 57 of 2023. The learned counsel for the applicant submits, that the release of the vehicle could be made by this Court, while exercising its powers under Section 451 of the Cr.P.C., particularly taking into consideration the interest of the depreciation of the vehicle, which may likely be caused, if the same is kept at the police station without the same being utilized.

			He, in support of his contention, has relied upon the principle laid down in the judgment of (2002) 10 SCC 283, Sunderbhai Ambalal Desai Vs. State of Gujrat, wherein, in para 17 of the said judgment, the Court has observed that the seized vehicle, which is lying with the Police Station, since the trial would itself take sufficient long time, the same could be released after taking an appropriate bond and guarantees, as well as the security, for the return of the said vehicle, whenever, required at any point of time. Relevant para 13 is extracted hereunder :- <i>“13. As a result, the order dated February 2, 2015 passed by Learned Judge of the Special Court under NDPS Act, Berhampore, Murshidabad in NDPS Case No.270 of 2014 is hereby set aside. The seized motor cycle bearing no.WB58X-4487 is returned to the petitioner on furnishing bank guarantee of Rs.1,50,000/- before the trial court and on conditions that the petitioner shall not alienate the motor cycle or change the nature and character of the motor cycle during the pendency of the criminal case and that the petitioner will produce the motor cycle before the trial court as and when called for and that the petitioner must produce the motor cycle before the trial court on conclusion of trial to decide whether the motor cycle is liable to be confiscated or the same will be returned to the petitioner. The Criminal revision is, thus, disposed of.”</i> Owing to the aforesaid principles, the vehicle, in question, which is presently lying at Police Thana Pulbhatta, District Udham Singh Nagar, is being directed to be released subject to furnishing of security of Rs.50,000/- before the Court of Special Sessions Judge (NDPS), Udham
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			Singh Nagar, as well as on furnishing of the bond to be furnished by the present applicant in an affidavit, that whenever the vehicle is required by the Trial Court during the course of trial of the case, the same would be produced by the present applicant. Subject to the aforesaid, exclusively based upon the ratio laid down in para 8 of the judgment of Ainul Haque Vs. State of West Bengal and another, as rendered in CRR No. 1152 of 2015, dated 07.07.2015, which is based upon the judgment of the Gujrat High Court, the vehicle as seized is directed to be released subject to the terms and conditions as already mentioned above. Subject to the aforesaid, the C482 Application stands disposed of. (Sharad Kumar Sharma, J.) Dated 24.08.2023 Shiv
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