

Court No. - 66

Case :- MATTERS UNDER ARTICLE 227 No. - 10959 of 2023

Petitioner :- Nikhat Parveen

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Dheeraj Kumar Yadav, Amarjeet Yadav

Counsel for Respondent :- G.A.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Vivek Kumar Yadav, Advocate, holding brief of Sri Amarjeet Yadav, learned counsel for the petitioner and learned A.G.A. for the State-respondents.
2. The present petition has been filed by the petitioner seeking a direction to the respondents authorities to release the Vehicle of the petitioner in his favour.
3. Learned counsel for the petitioner states that he is owner of the vehicle bearing no. UP61AT4180 which was found to be involved in commission of offence registered by the Police in Case Crime No. 228 of 2022, under Section 3/5A/8, 5B of U.P. Prevention of Cow Slaughter Act, 1955. The said vehicle was seized by the Police on 02.05.2022 in the alleged commission of the crime. Since then vehicle is lying in the Police Station. The petitioner moved an application before District Magistrate for release of the vehicle but vide order dated 22.07.2022 District Magistrate rejected the application of the petitioner. The said order was challenged in appeal before Addl. District and Sessions Judge, Ghazipur but the appellate court was pleased to dismiss the appeal upholding the order of the District Magistrate vide order dated 15.12.2022.
4. Aggrieved by the order dated 15.12.2022, petitioner has

preferred this writ petition before this Court for release of the vehicle in his favour.

5. On perusal of the report, it transpires that the vehicle was seized on 02.05.2022. It can safely be presumed that the investigation by the police must have been completed and therefore there is no reason for the investigating officer to keep the vehicle in Police Station.

6. In view of law laid down by Hon'ble Supreme Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat 2002 Supp(3) SCR 39**, let the vehicle be released in favour of the petitioner subject to the conditions that petitioner shall produce the vehicle as and when required by the Police or the Court where the trial is pending; during the pendency of the trial, petitioner shall not sale or dispose of the vehicle; the vehicle shall be used only for the purpose for which it has been purchased and not for any illegal purpose. If the vehicle is found to be involved in any of the offence, the same shall be intimated to the Court where the case is pending, besides the other conditions viz. security bond etc. as may deem fit by the Chief Judicial Magistrate, District Ghazipur.

6. The writ petition stands allowed.

Order Date :- 1.12.2023

P.Sri.

(Vinod Diwakar, J.)