

Court No. - 66

Case :- MATTERS UNDER ARTICLE 227 No. - 11858 of 2023

Petitioner :- Jaideep Sonkar

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

Counsel for Petitioner :- Shri Prakash Dwivedi

Counsel for Respondent :- C.S.C.

Hon'ble Vinod Diwakar,J.

1. Learned counsel for the petitioner prays that he may be permitted to amend the prayer clause.
2. Prayer sought is granted. Learned counsel for the petitioner is permitted to amend the prayer clause, during the course of the day.
3. The instant petition has been filed to set aside the order dated 20.07.2023 passed by Additional District Judge/FTC. 1st, Bhadohi in Civil Appeal No. 15 of 2021 (Jaideep Sonkar vs. Thanadhyakcha Suriyawan & another) and order dated 13.08.2021 passed by District Magistrate, Bhadohi in Case No. 572 of 2021 (State of U.P. vs. Jaideep Sonkar).
4. Learned counsel for the petitioner states that he is owner of the vehicle bearing No. UP 63X-9596, which was found to be involved in commission of offence registered by the Police in Case Crime No. 0214 of 2020, under Section 60, 62, 63, 72 of U.P. Excise Act and Section 255, 257, 258, 259, 272, 273, 419, 420, 467, 468, 471 IPC and Section 207 Motor Vehicle Act. The said vehicle was seized by the police on 19.09.2020 with the allegation for transport of unauthorized liquor. Thereafter, the petitioner moved an application before the District Magistrate for release of the vehicle but vide order dated 08.04.2021 District Magistrate rejected the application of the petitioner. The said order was challenged in appeal before Addl. District Judge/FTC, Bhadohi and the appellate court also dismissed the appeal vide order dated 13.08.2021. The vehicle is lying in the police custody since 19.09.2020 which is causing inconvenience to the business of the petitioner. He further contends that the vehicle was the only source

of income of his family because of seizure of the said vehicle entire family is facing hardship.

5. Aggrieved by the order dated 13.08.2021, petitioner has preferred this writ petition before this Court for release of the vehicle in his favour.

6. On perusal of the report, it transpires that the vehicle was seized on 19.09.2020. It can safely be presumed that the investigation by the police must have been completed by now and therefore there is no reason for the investigating officer to keep the vehicle in Police Station.

7. In view of law laid down by Hon'ble Supreme Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat 2002 SCC Online SC 934**, 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 Bhadohi.

8. The writ petition stands allowed.

Order Date :- 1.12.2023

Ujjawal

(Vinod Diwakar,J.)