

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO. 39 OF 2019**

Mrs. Radhika Parakh, wife of Cdr. Clifford N. Parakh, aged 47 years, married, housewife, residing at C-302, Bay Village Housing Society, Near M.E.S. College, Zuarinagar, Sancoale, Goa. Petitioner

Versus

1. State of Goa, Through the Public Prosecutor, Panaji, Goa.
2. The Police Inspector, Vasco Police Station, Vasco da Gama, Goa. Respondents

Ms. Maria Correia, Advocate for the Petitioner.

Mr. Pravin N. Faldessai, Additional Public Prosecutor for the Respondents.

CORAM : C.V. BHADANG, J.

DATE : 26th March, 2019

ORAL JUDGMENT:

Rule made returnable forthwith. Mr. Faldessai, the learned Additional Public Prosecutor, for the respondents, waives service. Heard finally by consent of parties.

2. The challenge in this petition is to the orders, refusing to release a vehicle, namely, Honda Brio bearing registration no. GA-06/E-2668, in favour of the petitioner.

3. The brief facts are that the petitioner while driving the said car had met with an accident, resulting into minor

injury to a child, who was aged four years. The petitioner is presently facing prosecution in respect of the said incidence for the offence punishable under Sections 279 and 337 of IPC, read with Section 196 of the Motor Vehicles Act, in as much as the vehicle, at the time of accident, was uninsured.

4. The petitioner sought release of the vehicle. The learned Magistrate after placing reliance on the decision of the Hon'ble Supreme Court in the case of **Jai Prakash Vs. National Insurance Company & Others (2010) 2 SCC 607**, refused to release the vehicle, which order has been confirmed by the learned Sessions Judge in appeal. Hence, this petition.

5. The learned Counsel for the petitioner submitted that the entire medical expenses of the child has been incurred by the petitioner and the father of the child has filed an affidavit dated 21.01.2019, stating that he does not intend to file any claim petition, as there was no serious injury to his son. The learned Counsel for the petitioner submitted that the petitioner, without prejudice to the contentions, is ready and willing to deposit Rs.50,000/- as well as to furnish a bond as security, for release of the vehicle, as may be directed by this Court.

6. The learned Additional Public Prosecutor for the respondent/State, in all fairness, has submitted that this Court may pass appropriate order as may be deemed just and necessary.

7. It appears that the child had suffered a minor injury and there is a certificate dated 19.02.2019 showing that after examination, the child has been found fit to attend the school. Admittedly, there is no claim petition filed by the father of the child.

8. In such circumstances, the following order is passed:

ORDER

- (i) The petition is allowed.
- (ii) The impugned order is hereby set aside.
- (iii) The concerned vehicle shall be released in favour of the petitioner, subject to the petitioner depositing an amount of Rs.50,000/- before the learned Magistrate and on furnishing a bond in the sum of Rs.50,000/- to the satisfaction of the learned Magistrate.
- (iv) The amount, if deposited, shall be invested in a nationalised bank.
- (v) This shall be subject to the outcome of the trial.

C. V. BHADANG, J.