

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26906-2020 (O&M)

Date of Decision: October 06, 2020

Pankaj

..... Petitioner

VERSUS

State of Punjab and others

.... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present Mr. Sandeep Bhardwaj, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

JAISHREE THAKUR, J.(Oral)

1. Petitioner has preferred this petition for quashing of order dated 27.7.2020 passed by Additional Deputy Commissioner Patiala, vide which prayer for release of vehicle has been declined.

2. The police had found vehicle number HR-38-V-9816 white in colour parked outside in village Shambu Kalan in an unidentified condition and therefore took the same in custody under Section 102 Cr.P.C. On coming to know that the vehicle had been impounded the petitioner moved appropriate applications for the release of the same but release of the vehicle has been declined on the ground that the respondent has no jurisdiction to release the same.

3. Learned counsel for the petitioner states that he is the true

owner of the vehicle and the same is not required for investigation as would be evident from the order of the JMIC Rajpura dated 30.6.2020. The Petitioner undertakes to produce the vehicle in the Court or before any other authority as and when called upon to do so and also abide by any terms and condition that might be imposed upon the petitioner.

4. Learned State counsel is not able to dispute the fact that the investigation is complete.

5. Since the impounded vehicle is in custody and is no longer required for investigation the same should be released in favour of the owner. If the vehicle is allowed to stand at the police station for a length of it would make it unfit for road worthiness as the condition of the vehicle will deteriorate.

6. Section 102 Cr.P.C. :

Power of police officer to seize certain property.

(1) Any police officer, may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

(3) Every police officer acting under sub- section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same.]

Though an aggrieved party would have the option of approaching the Courts for release of the vehicle, but during the COVID-19 Pandemic, it might be difficult for a person to do so as the Courts are not

working at their full strength and limited matters are coming up for hearing. Therefore, under these exceptional circumstances, when the vehicle is no longer required for investigation, the police by exercising their power under Section 102(3) Cr.P.C. would also be competent to do so.

7. Consequently, the impugned order is set aside and respondent No.4 is directed to hand over the vehicle to the owner provided the petitioner executes an indemnity bond of ₹10,000/- with an undertaking in terms of sub-section(3) of Section 102 of Cr.P.C with an additional undertaking not to commit the same breaches again.

8. This petition is allowed in the aforesaid terms.

October 06, 2020

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	No