

CRM-M-1359-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-1359-2021 (O&M)

Reserved on: 21.12.2022

Date of Pronouncement: 23.12.2022

Amrik Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARAPresent: Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab.

ANOOP CHITKARA, J. (Oral)

Aggrieved by dismissal of the application for release of the vehicle (tractor Swaraj 744 no.PB63A-3226), seized for causing accident with a motorcycle which resulted in death of the driver of the motorcycle, the petitioner claiming to be the registered owner of the vehicle, has come up before this court, seeking its release.

2. In Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283, Hon'ble Supreme Court holds,

[17]. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

[18]. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed *panchnama* should be prepared.

3. The trial Court rejected the release application based on notification dated 3.4.2019 issued vide GSR/19/C.A.59/1988/S.176/Amd.(26)/2019, Rule 231-B Punjab Motor Vehicle Rules, 1989 by the Transport Department, Government of Punjab. As per the said notification, '*Prohibition against release of motor vehicle involved in accident:- clause(1) No court shall release vehicle involved in an accident resulting in death or bodily injury or damage to property, when such vehicle is not covered by the policy against third party risks taken in the name of the registered owner.*'

4. The vehicle in question was not insured at the time of accident and therefore, the remedy is that before the Court releases the said vehicle i.e. tractor-trolley, the registered owner must show a valid insurance policy.

5. Given above, the concerned court will release the seized vehicle to the registered owner after verifying the registration certificate *qua* ownership. If the vehicle is found to be hypothecated, then information about its release also be sent to the concerned financial agency. Furthermore, the insurance policy's copy shall be filed by the registered owner.

6. The release shall be subject to the petitioner furnishing a bank guarantee to the extent of the vehicle's current market value as assessed by a valuer. The petitioner shall get the car's valuation done at his expense, and the concerned SHO shall permit the valuer to inspect the vehicle without any delay or obstruction and shall behave with the valuer in a decent and respectfully manner.

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

December 23, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.