

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-987-2020 (O&M)
Date of Order: 22.12.2022

Jameeta Singh

...Appellant (s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Ms. Simsi Dhir Malhotra, Advocate
for the appellant.

Mr. Aditya Kapoor, AAG, Punjab.

ANOOP CHITKARA, J.

Aggrieved by confiscation of the vehicle i.e. Canter No.HR-37B-7864, seized for transporting the prohibited substance under Section 15 of NDPS Act, the petitioner claiming to be the registered owner of the said vehicle, has come up before this court, seeking its release.

2. Counsel for the appellant has argued that no observation whatsoever was made by the trial Court regarding release of the vehicle in question and therefore, he had no other remedy but to approach this Court.

3. Admittedly, the appellant has straightaway come to this Court, though in the first instance, he should have applied for release of the vehicle before the trial Court. However, now, since the trial Court is not seized of the matter, it is safe to infer that the appellant believed that there is lack of jurisdiction with the trial Court and he preferred the present appeal before this Court. Thus, in exercise of powers under Section 482 CrPC, this Court proceeds further to deal with the matter on merits.

4. 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.”

5. Given this, the impugned order dated 14.02.2019 passed by Judge, Special Court, Hoshiarpur, whereby no direction/observation was made for release of the vehicle for the reasons that the NDPS Act creates a bar in the release of vehicles used in transporting drugs, is quashed and set aside. 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 be also sent to the concerned financial agency.

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

(ANOOP CHITKARA)
JUDGE

December 22, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.