

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-37941-2021 (O&M)

Reserved on: 15.02.2023

Pronounced on: 11.04.2023

Saraj Singh

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Balbir Kumar Saini, Advocate
for the petitioner(s).

Mr. Amit Shukla, AAG, Punjab.

ANOOP CHITKARA, J.

Aggrieved by dismissal of the application for release of the vehicle i.e. XUV bearing registration No.PB-29Y-0175, colour white, on *supardari*, seized for transporting the prohibited substance under Sections 21, 29 of NDPS Act, the petitioner claiming to be its registered owner, 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. Given above, the impugned order dated 18.7.2020 (Annexure P-3) and order dated 9.2.2021 (Annexure P-4) passed by Special Court, Moga, whereby the court had rejected the release of the vehicle because the NDPS Act creates a bar in its release as it was used in transporting drugs, are quashed and set aside. The concerned court, to order the release of the vehicle to the petitioner after verifying the registration certificate and ascertaining that the petitioner is the registered owner of the vehicle, sought to be released. If the vehicle is found to be hypothecated, then information about its release also be sent to the concerned financial agency.

4. The release of the vehicle above mentioned vehicle shall be subject to the petitioner furnishing an indemnity bond to the concerned court, with a signed copy on original stamp papers, to the concerned SHO. In the indemnity bond, the petitioner shall undertake to pay to the State, in case so ordered in these or any related proceedings, the value of the vehicle as per the valuation report quantifying the vehicle's current market value as assessed by a valuer, along with interest at the rate of 6% per annum, compoundable annually. The petitioner shall get the vehicle's valuation done at their expense, and the concerned police officers/other officials shall permit the valuer to inspect the vehicle without any delay or obstruction, and shall behave with the valuer and the petitioner decently and respectfully.

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

(ANOOP CHITKARA)
JUDGE

April 11, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No