

235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52605-2021
Decided on: 29.05.2023

Pardeep ...Petitioner

Versus

State of Haryana ...Respondent

* * * *

ANOOP CHITKARA, J.

Aggrieved by the order dated 15.11.2021 passed by the learned Additional Sessions Judge, Fatehabad in FIR No.30 dated 17.01.2021 registered under Section 18 of NDPS Act 1985 at Police Station City Fatehabad, District Fatehabad, vide which, application for releasing the vehicle to the registered owner (petitioner) has been dismissed, the petitioner has come up before this Court.

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 15.11.2021 passed by Additional Sessions Judge, Fatehbad, whereby the court had rejected the release of the vehicle because the NDPS Act creates a bar in its release for usage in transporting drugs, is 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 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 value, 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

29.05.2023
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Whether speaking/reasoned:	Yes
Whether reportable:	No.