

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

CRM-M-56568-2022
Reserved on: 30.01.2023
Pronounced on: 09.02.2023

Ram Saran ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Namit Khurana, Advocate for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

ANOOP CHITKARA, J.

Aggrieved by dismissal of the application for release of the vehicle bearing registration No.HR71J-3830, seized for transporting material i.e. sands etc. under Mining 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. The State objects that the vehicle involved in illicit mining can only be released after following the directions of the National Green Tribunal. However, perusing the

above captioned FIR reveals the incorporation of offences punishable under the Indian Penal Code, 1860, [IPC] apart from the mining offences. The offences under IPC are triable by the traditional criminal courts as per the procedure prescribed under the Code of Criminal Procedure, 1973. As such prima facie, the Criminal Courts trying the offences under IPC would have jurisdiction to try the accused. Given above, the jurisdiction to adjudicate the release of the vehicle involved in the FIR and the offences under IPC shall also rest with these courts. Consequently, the High Court shall have jurisdiction under section 482 CrPC to adjudicate the release of the vehicle involved in the mining offences and the offences under IPC.

4. Given above, the impugned order dated 06.07.2022 (Annexure P-4) passed by learned Sub Divisional Judicial Magistrate, Bilaspur, District Yamuna Nagar, whereby the court had rejected the release of the vehicle, 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.

5. 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. In the indemnity bond, the petitioner shall undertake to pay to the State, in case so ordered in this 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

09.02.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.