

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CRM-M-61330-2023
Decided on: 05.02.2024

Surinder Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ishan Gupta, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab.

ANOOP CHITKARA, J.

Aggrieved by the dismissal of the application for release of the vehicle (Maruti Brezza ZDI bearing registration No.PB-19R-2272), vide order dated 06.11.2023 passed by the Sessions Judge, Sangrur, seized from accused Balkar Singh, who was arrested under Sections 409, 465, 467, 471, 468, 120-B IPC and 13(1)(a), 13(2) of Prevention of Corruption (Amendment) Act 2018, the petitioner claiming to be its registered owner, has come up before this court, seeking its release.

2. In a nutshell, the FIR relates to the petitioner's son-in-law, posted as a Patwari, who took massive bribes and was arrested. The petitioner's son-in-law had also allegedly taken bribes in return of transferring a property based on the forged Will and forged signatures and also attestation of mutation showing signatures of people who had already expired. When investigator arrested Balkar Singh Patwari at the same time, he had also taken the vehicle into possession from the custody of said Patwari. During investigation, the investigator found that the vehicle Maruti Brezza ZDI bearing registration No.PB-19R-2272 appear to be Benami which was purchased in the name of petitioner. To verify this fact, police officials had notified the petitioner under Section 160 CrPC to show her documents, but she has yet to respond.

3. In a nutshell, the case of the prosecution is that the car in question was purchased by Patwari Balkar Singh allegedly from illicitly acquired money in the name of the petitioner; as such, the petitioner has no right to take it back.

4. The petitioner had approached the Sessions Judge, Sangrur, and applied to releasing the car on superdari. Vide order dated 06.11.2023, the concerned Court

dismissed the application primarily because an inquiry qua said vehicle is still pending. As per the report from Police Station, Vigilance Bureau, Unit Sangrur, Surinder Kaur was found to be the registered owner of a Maruti Brezza ZDI bearing registration No.PB-19R-2272, which had been taken into possession from the custody of Balkar Singh Patwari, and vigilance inquiry is being conducted for disproportionate assets of said Patwari Balkar Singh. As such, the concerned Court refused to release the vehicle because it was yet to be ascertained whether the car in question was purchased by Surinder Kaur out of her own funds or purchased as benami by Balkar Singh Patwari.

5. Petitioner's counsel submits that accused Balkar Singh Patwari is her son-in-law and on his arrest, she rushed to his home in her car, to console her daughter and family. From there, car of petitioner was also taken in possession by the investigating agency. Petitioner's counsel has handed over photocopy of the registration certificate of the car.

6. Counsel for the State opposes the application. By making reference to para 4 of the reply, State counsel submits that the concerned Court had directed the petitioner, Surinder Kaur, to submit evidence to support that she purchased the vehicle from her own funds, but she did not do so. Further, she has yet to respond to the notice issued under Section 160 CrPC.

7. I have heard counsel for the parties and gone through the petition.

8. A vehicle registration certificate proves not only the vehicle's details but also of its registered owner. Seizer by investigator and continue in malkhana means to make the same outdated because of a time-lapse. If the vehicle is left in a seized condition, it will lose roadworthiness, turn into junk, and eventually, it will also cross the time for which it has been designed and approved to run on the roads. Further, at the time of producing the vehicle, so much carbon emission has taken place, and such damage to the planet that has already been done; In addition, it would also occupy a parking slot. Keeping the vehicle in police possession is not going to serve any purpose. Further, there is no need to remind the investigator his power granted by the statute. He has ample power to seek presence of any one in accordance with law. If petitioner is not responding to the notice so issued, it is for the investigator to take further action, not by this Court.

9. It remains undisputed that the petitioner is the registered owner of the vehicle. If the vehicle was purchased with the funds of petitioner's son-in-law, this fact can only be proved from the source of income of said Balkar Singh Patwari. Once the investigation concludes and later it is finally adjudicated whether it was purchased from self-acquired funds or funds that Balkar Singh Patwari had illicitly acquired till that date vehicle would

turn into junk. The remedy lies in releasing the said vehicle to its registered owner, subject to furnishing of financial undertaking.

10. 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.

11. Given above, the impugned order dated 06.11.2023 passed by Sessions Judge, Sangrur, 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.

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

13. It is clarified that as and when investigator is able to ascertain that petitioner is not actual owner of vehicle and the same is benami property of accused Balkar Singh

Patwari, he may file an application before the concerned Court for forfeiture/confiscation of the above mentioned vehicle and in case, any order so passed by trial court, after hearing the petitioner who is registered owner, petitioner shall abide by the order or he shall pay the valuation amount along with interest as mentioned above. The vehicles registration certificate and the valuation certificate shall be relevant facts and sufficient proof.

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

(ANOOP CHITKARA)
JUDGE

05.02.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: **YES.**