

**HIGH COURT OF JAMMU AND KASHMIR AND LADAKH  
AT JAMMU**

CRM (M) No. 715/2021

Gurnam Singh

.....Appellant/Petitioner(s)

Through :- Mr. R. S. Parihar, Advocate

v/s

UT of J&K

.....Respondent(s)

Through :- Mr. Vishal Bharti, Dy. AG

**CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

**JUDGMENT**

1. The present petition has been filed by the petitioner under section 482 Cr.P.C. for quashing the order dated 04.10.2021 passed by the learned Principal Sessions Judge, Udhampur (hereinafter to be referred as the trial court) to the extent of imposing condition of furnishing bank guarantee of Rs. 1,00,000/- for release of vehicle (Truck) bearing registration number PB11AD-3405.
2. It is stated that the petitioner is the registered owner of the vehicle in question and a false and frivolous FIR bearing No. 287/2021 under sections 8/15 of the NDPS Act was registered, as the truck in question was used for illegally carrying/transporting of contraband (poppy straw) weighing 12.650 kgs. It is further submitted that the truck in question is the only source of income of the petitioner and being a poor man it is quite impossible for him to furnish a bank guarantee of Rs. 1,00,000/-

3. It is further stated that the petitioner is the registered owner of the said vehicle and had approached the trial court for release of the same. The learned trial court vide order dated 04.10.2021 (supra) directed release of the truck bearing No. PB11AD-3405 on supurdnama of the registered owner, subject to fulfillment of certain conditions and one of the conditions figuring at Sr. No. 10 (vii) is reproduced as under:

(vii) “he shall furnish a bank guarantee to the tune of Rs. one lac for due compliance of these conditions.”

4. The petitioner through the medium of present petition has assailed order dated 04.10.2021 primarily on the ground that the aforesaid condition imposed by the learned trial court is not justifiable.

5. Learned counsels for both the sides submit that appropriate orders may be passed in view of the law laid down by the Apex Court in **Sunderbhai Ambalal Desai v State of Gujarat, (2002) 10 SCC 283.**

6. Heard and perused the record.

7. The only purpose for releasing of the vehicle is to ensure that the vehicle remains, roadworthy otherwise, if the same is allowed to remain in police custody, the same shall lose its utility. The learned trial court has already imposed certain conditions while releasing the vehicle in question and the purpose is to ensure that the vehicle is not disposed of by the person on whose supurdnama the vehicle is kept and the same is produced before the court as and when required.

8. The Apex Court in **Sunderbahi Ambalal Desai's case (supra)** has held that:

“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.”

9. The condition of imposing bank guarantee by the learned trial court is harsh, when other conditions have already been imposed by the trial court. So this Court is of the considered view that the said condition is required to be modified and the petitioner shall furnish two sureties of Rs. 50,000/- each.

10. For all what has been discussed above, this petition is allowed and the condition of furnishing of bank guarantee of Rs. 1,00,000/- imposed by the learned trial court vide order dated 04.10.2021 is modified to the extent that the petitioner shall furnish two sureties of Rs. 50,000/- each to the satisfaction of the trial court.

**(Rajnish Oswal)**  
**Judge**

**JAMMU**  
12.11.2021  
Karam Chand/Secy

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No