

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

CRM (M) No. 689/2021

Sunil Singh

.....Appellant/Petitioner(s)

Through :- Mr. Jagpaul Singh, Advocate

v/s

UT of J&K

.....Respondent(s)

Through :- Mr. Ravinder Gupta, AAG

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 07.11.2020 passed by the learned Principal Sessions Judge, Samba (hereinafter to be referred as the trial court) to the extent of imposing condition of furnishing bank guarantee of Rs. 30,000/- for release of vehicle (Motorcycle) bearing registration number JK 21D-2661.
2. It is stated that the petitioner is the registered owner of the vehicle in question and a false and frivolous FIR bearing No. 145/2020 under sections 8/15/20/29 of the NDPS Act was registered as motorcycle in question was used for illegally carrying/transporting of contraband (20 pieces of charas like substance) weighing 300/350 gms. It is further submitted that the motorcycle in question is the only source of conveyance of the petitioner and being a poor man it is quite impossible for him to furnish a bank guarantee of Rs. 30,000/

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 07.11.2020 (supra) directed the release of the motorcycle bearing No. JK21D 2661 and mobile Samsung temporarily and retaining RC of the said motorcycle in original in favour its registered owner on furnishing of bank guarantee of Rs. 30,000/- with certain undertakings.
4. The petitioner through the medium of present petition has assailed order dated 07.11.2020 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 order 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. 15,000/- each.
10. For all what has been discussed above, this petition is allowed and the condition of furnishing of bank guarantee of Rs. 30,000/- imposed by the learned trial court vide order dated 07.11.2020 is modified to the extent that the petitioner shall furnish two sureties of Rs. 15,000/- each to the satisfaction of the trial court.

(Rajnish Oswal)
Judge

JAMMU
03.11.2021
Karam Chand/Secy

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