

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Revision Petition No. 749/2021

Mohsin S/o Chand Khan, Resident Of Bheshodamandi Police Station Bhanpura District Mandsor (Mp)

----Petitioner

Versus

State Of Rajasthan, Through P.p

----Respondent

For Petitioner(s) : Mr. Rohit Khandelwal

For Respondent(s) : Mr. Prashant Sharma, PP

HON'BLE MR. JUSTICE GOVERDHAN BARDHAR

Order

30/07/2021

This criminal miscellaneous petition has been filed against the order dated 1.7.2021 passed by the learned Special Judge, (NDPS Cases) and Additional Sessions Judge, Bhawani Mandi District Jhalawar whereby, the application filed by the accused-petitioner under Section 451 Cr.P.C for releasing the Motorcycle No.MP13-EV-5188 has been dismissed.

It is contended by the learned counsel for the petitioner that the petitioner is registered owner of the vehicle there is no other rival claim for its release. Relying on the judgments of the Hon'ble Apex Court of India in cases of **Sunderbhai Ambalal Desai vs. State of Gujarat, (2002) 10 SCC 290** and **Coordinate Bench Judgments dated 14.08.2012 in S.B. Criminal Miscellaneous Petition No.2682/2012, Phool Singh vs. State of Rajasthan** and in cases of **Bal Mikand vs. State, 1994 Cri Lr (Raj) 4, Prakash Chand vs. State of Rajasthan,**

S.B. Criminal Miscellaneous Petition No.416/2010 decided on **12.03.2010 & Laxman vs. State of Rajasthan, S.B.** **Criminal Miscellaneous Petition No.61/2018** decided on **16.04.2018**, learned counsel submitted that vehicle be given to the petitioner on furnishing 'supurdginama'.

Opposing the prayer, learned Public Prosecutor submitted that vehicle in question was used for commission of offence under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity "the Act of 1985") and can be subject-matter of confiscation under Section 60 of the Act of 1985 and hence, the petitioner is not entitled for release of the vehicle in his favour.

Heard learned counsels for the parties and perused the record.

It is undisputed that petitioner is registered owner of the vehicle in question which has not been claimed by any other person. Now, it is no more res integra that vehicle seized under the provisions of the Act of 1985 can be released in favour of its registered owner; though, may be an accused, if no order of confiscation has been passed, which has not been done in the present case.

In these circumstances, this criminal miscellaneous petition deserves to be allowed and is accordingly allowed. The order dated 1.7.2021 passed by the learned Special Judge (NDPS Cases) and Additional Sessions Judge, Bhawani Mandi District, Jhalawar is quashed and set aside. It is directed that the Motorcycle No.MP13-EV-5188 be released in favour of the

petitioner on 'supurdginama' on his producing original registration certificate and on satisfying following conditions:-

- (1) He furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/-each to the satisfaction of the trial Court undertaking to produce the vehicle in question in the Court as and when required to do so.
- (2) He shall get the vehicle in question photographed showing the registration number as well as the chassis number. Such photograph shall be taken in the presence of the Investigating Officer, to be kept on the file of the case.
- (3) The personal bonds of the petitioner and bonds of sureties shall carry the photographs of the petitioner and his sureties and the bond of sureties shall further carry the photographs of persons identifying them before the Court with full residential particulars of the sureties and the persons identifying them.
- (4) The petitioner shall undertake not to transfer the ownership of the vehicle in question and not to lease it to any one and not to make or allow any changes in it to be made so as to make unidentifiable.

सत्यमेव जयते

(GOVERDHAN BARDHAR),J