

In the Court of Additional Sessions Judge 1st, Gaya
N.D.P.S. Case No. 70/2021
I.A. No. 01/2021

01.02.2022 A petition dated 21.12.2021 for release of Truck bearing registration No. HR37D-7783, Chasis No. MB1AWJFCLERSK6652, Engine No. ETEZ206616 has been filed on behalf of Kulwant Kaur, w/o-Avtar Singh, R/o H.No. 874, Shivpuri, P.S. Ambala, State Haryana-134007 who is the owner of the vehicle which was seized in connection with Excise Case No. 70/2021, which has been pressed by the Ld. Counsel for the petitioner today.

Ld. Counsel for the petitioner submitted that the petition has been filed to release the vehicle bearing No. HR37D-7783 in favour of the petitioner who is legal owner of the said vehicle. Ld. Counsel further submitted that all documents relating to ownership of the vehicle has been filed in the court which are genuine and up to date in the name of the petitioner Kulwant Kaur, hence the same may be released in favour of the petitioner.

Ld. Spl. P.P. for the state has opposed the release of the said truck but has admitted that if all the documents relating to the vehicle are found to be true and genuine, the same may be released in favour of the petitioner with condition.

Heard both the parties and perused the record including the documents filed by the petitioner, it transpires that the truck bearing No. HR37D-7783 has been seized by the police alongwith the accused of this case having 144 kg Ganja on the vehicle. I.O. of the case has submitted report that the investigation of the case is complete and there is no need of the seized truck in the course of investigation. The documents relating to ownership of the said seized truck are available on the record i.e. paper of Certificate of Registration, paper of permit, Insurance, Goods Permit, fitness certificate etc. and all the documents are upto date. From the perusal of the insurance paper, it appears that the company had assessed the value of the said truck as rupees 5,20,000.

Section 451 reads as under “ **Order for custody and disposal of property pending trial in certain cases. When any property is produced before any Criminal Court during any inquiry or trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.**”

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Section 457 reads as under **“1. Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.**

2. If the person so entitled is known, the magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate things fit.”

Hon'ble Supreme Court in General Insurance Council and Others Vs. State of Andhra Pradesh and others: 2010(6) Supreme Court has held and directed the concern authority to ensure macro implementation of the provisions of Sections 451 and 457 of the Cr. P.C. for disposal of properties, vehicles etc. lying in the police station.

The Hon'ble Patna High Court in Cri. Misc. No. 40514/2016 in case of Sukhdeo Singh V/s Ajay Kumar has held that **“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.”**

In view of the observation made by the Hon'ble Supreme Court in case of Sunderbhai Ambalal Desai Vs. State of Gujarat 2002 (10) SCC 283 as well as the Hon'ble Patna High Court in Cri. Misc. No. 40514/2016 in case of Sukhdeo Singh V/s The Union of India. It is hereby directed to release the vehicle bearing no. HR37D-7783 in the favour of the petitioner on furnishing Indemnity bond of Rs 5,20,000 (Five Lacs Twenty Thousand Only) with two sureties of the like amount each,
Subject to the condition that:-

- i. The petitioner shall furnish bank guranty of Two Lacs Fifty Thousand Only.

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- ii. The petitioner shall execute a bond for return of the said vehicle if required by the court at any point of time.
- iii. The Petitioner shall also give an undertaking on oath that he shall not alter physical feture of the vehicle or part with the ownership of the vehicle during pendency of the trial.
- iv. He will not use or allow the vehicle for the condition of any offence including offence under the NDPS Act.

In the facts and circumstances of the case. The Incharge of Samekit Janch Chauki (Excise), Dobhi, Gaya is hereby directed to release the truck bearing no. HR37D-7783, Chasis No. MB1AWJFCLERSK6652 Engine No. ETEZ206616 seized in Excise Case No. 70/2021 and N.D.P.S. Case No. 70/2021 in favour of the petitioner Kulwant Kaur, w/o-Avtar Singh, R/o H.No. 874, Shivpuri, P.S. Ambala, State Haryana-134007 after preparing Panchnama of the said vehicle with photographs and send the same to this court. Immediately.

(Dictated)

Sd/-

A.D.J. 1st, Gaya