

**IN THE COURT OF SPECIAL MOBILE MAGISTRATE PT&E,
SRINAGAR**

D.O.I: 24/08/2022
D.O.O: 25/08/2022
CNR: JKSG030501052022

Fayaz Ahmad Ganie
Son of Ghulam Hussain Ganie
R/O Budina Budgam

. . . Applicant

>>> Through: Javid Ahmad Bhat, Advocate

Versus

U T/State of J&K FIR No. 159/2022
Through SHO Police Station Safakadal,
Offences U/S: 279,188 IPC

Through: APP

In the matter of: - Application for release of Vehicle bearing Registration
No: - **JK01M/5137** along with material in favour of
applicant.

CORAM: Sunil Kumar
JO Code. JK00201

ORDER

1. The application has been transferred to this court by learned CJM Srinagar. Police report is annexed with the application. The application has been filed by applicant through his counsel for the release of Vehicle bearing Registration No. **JK01M/5137** Seized by Police Station **Safakadal**, Srinagar. The applicant has prayed in the application that the vehicle which has been seized by Police concerned in connection with case FIR No. **159/2022** under supra mentioned sections is the only source of income for him. The investigation has been completed in the matter and there is no need to keep the vehicle under further custody. In case the vehicle is not released in favor of the applicant, same shall get deteriorated in the police custody and heavy loss shall be caused to the applicant. The

vehicle in question is the only source of income of the applicant and in case same is not released the applicant along with his family shall face starvation. The applicant would remain obedient to any order or direction passed by this Hon'ble Court and will produce the said vehicle before this Hon'ble Court as and when directed. Lastly prayed that the vehicle in question be released in favour of the applicant.

2. From the police report it reflects that vehicle in question is seized in connection with case FIR No: - **159/2022**. Prosecution has filed its objections. Prosecution has objected to the release of vehicle on the ground that the vehicle in question being an important evidence having been employed in commission of offence can't be released at this stage. However, if, Hon'ble Court intends to release the vehicle same may be released in favour of registered owner on superdnama, subject to such terms and conditions this Hon'ble Court deems fit and proper in the circumstances of the case.

3. Heard and perused the application for release of vehicle, the police report and the objections filed by the prosecution. The Hon'ble Supreme Court of India in case titled **Sunderbhai Ambalal Desai versus State of Gujarat reported in 2002(8) Supreme 525 and has held (read Delhi high court also in case titled Manjit Sing vs. State decided on 10th of Sep. 2014)**_

“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.” Para 17.

4. From the facts and circumstances discussed above and in the light of Judgment of Hon'ble Supreme Court of India this court deems it fit case where by vehicle in question shall be released along with material subject to furnishing of undertaking that applicant will not alienate the vehicles nor will change nature or colour of the vehicles and will produce the same before the IO or the Court as and when directed.
5. As such SHO P/S **Safakadal**, Srinagar is directed to release the vehicle along with material bearing Registration No. mentioned above in favour of the registered owner or in favour of the person from whose possession the same has been seized with the following conditions.
 - a. R/P of the vehicle and Identity Card of the driver/applicant from whose possession the vehicle has been seized be retained in original.
 - b. Undertaking is to be furnished by the applicant before this court that applicant will not change the colour and nature of the vehicle and will not also create third party interest in the vehicle.
 - c. Engine no. and Chassis no. of the vehicle be note down.
 - d. Photography of the vehicle from all the sides be taken.

The undertaking/superdnama stands furnished. It is clarified here that this order for release of vehicle shall not be construed as determining the ownership of the vehicle. Application is accordingly disposed off and after due compilation be consigned to records.

ANNOUNCED
25/08/2022