

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
KATHUA

Case No. : 252
CNR No. JKKT0300/6832022
D.O.I : 02.10.2022
D.O.O: 03.10.2022

Mohamad Rafi S/o Guljar Ehmada R/o Village Dera Baba Nanak, Tehsil Batala &
Distt. Kathua.

(Applicant)

Through: Adv. Neeraj Singh.

Versus

UT of J&K through SHO P/S Lakhanpur.

Through Ld. APP, Sh. Bachan Lal.

In the matter : An application for release of vehicle bearing registration no. JK02AL-1513 seized by **Police of Police Station Lakhanpur** in case **FIR No. 85/2022**, for the commission of offence under section 279/337 IPC.

CORAM : Sandeep Kour.
J.O Code : JK 00111

ORDER

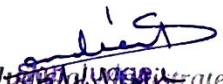
1. Through the medium of present application, indulgence of the court is sought by the applicant herein, for release of vehicle referred above seized by Police concerned on the ground that he is lawful claimant of the vehicle in question which has been wrongly seized and the said vehicle is no more required by the investigating agency whereas the vehicle is required by the applicant for its use. It is also prayed that vehicle be released on any terms and condition as may be imposed by the Court.
2. Upon presentation of the application the Police report was obtained which has been received from **P/S Lakhanpur** where it appears that the vehicle in question is seized in the above case as a piece of evidence/case property.
3. **I have heard Ld. Counsel for the applicant and Prosecution for the U.T., perused the application, the Police report and considered the arguments raised by Ld. counsels for the parties.**
4. Herein vehicle no. **JK02AL-1513** seems to have been seized in **FIR No. 85/2022** under Section 279/337 IPC by **P/S Lakhanpur**. The vehicle is lying in Police Station concerned.
5. The general law relating to release of vehicle seized in connection with crime pending investigation on trial by the Magistrate, in the most universal of its dimension has been laid down by Hon'ble Supreme Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat, 2002 (10) S.C.C 283**. In the said decision of their

lordship the issue of release of vehicle seized in connection with crimes and parked in Police Station has been dealt with and answered thus:-

"In our view, whatever be the situation, it is of no use to keep such seized vehicle at the Police Station for a long period. It is for Magistrate to pass appropriate order immediately by taking appropriate bond and guarantor as well as security for return of it, and vehicle if required at any point of time they can be done pending hearing of application to return of such vehicles".

6. Accordingly, in view of mandate of law supra and the fact that retention of the vehicle would not serve any purpose. Hence, the application deserves to be allowed which is allowed and the vehicle in question is ordered to be released **in favour of Driver** on temporary custody (SUPURDNAMA) after its **mechanical examination, after retaining the original R/C of the said vehicle and D/L of driver**, against proper receipt. The I.O shall also obtain a photograph of the supurdar with vehicle which shall be made part of Panchnama/ Supurdnama. Further the Supurdar shall file an undertaking before this court, to the effect that he shall be liable to produce the vehicle before I.O/Court and shall not change the specification of the vehicle nor shall put the same to alienation by any mode. With this order the application stands disposed off. Be consigned to record under law.

Announced
03.10.2022


Chief Judicial Magistrate
Kathua