

CNR No. WBDJ070003642022

JO Code : WB00682

Special NDPS Case No. 25/2022

Order No. 13

Dated 18.11.2023

Today is the date fixed for hearing the petition regarding the release of the seized vehicle bearing Regd. No. SK01PD/0868.

Petitioner/accused files a list of xerox copies of documents, let these documents be kept with the case record.

Heard the petition filed by the petitioner/accused Jigmee Wangchuk Bhutia praying for releasing the seized vehicle to his custody in presence of Ld. advocate for the accused/petitioner as well as Ld. Special P.P.

Seen the petition, perused the case record and relevant xerox copy of documents furnished by the accused/petitioner and the report of the I.O. regarding the seized vehicle and considered. Let these documents be kept with the case record.

On going through the report of the I.O., I find that he has strong objection to release the seized vehicle bearing Regd. No. SK01PD/086 and has stated that this vehicle was used to carry contraband drugs by the accused person and if the vehicle is released it can be used for further illegal business.

I perused the case record and it is evident from the seizure list dated 17.12.2022 that one Isuzu vehicle bearing Regd. No. SK01PD0868 in running condition with its key was seized from the possession of Jigmee Wangchuk Bhutia.

In order to prove the ownership of the seized vehicle bearing Regd. No. SK01PD/0868 the accused/petitioner has submitted some xerox copy of documents before this court and it is found from the certificate of Insurance policy that the Insurance certificate is valid till 23.09.2025. It is also disclosed from the xerox copy of Tax invoice of Darjeeling Automobile P. LTD, Burdwan Road, Siliguri that Jigmee Wangchuk Bhutia purchased the vehicle Isuzu, Chassis No. M3GTFR546NB500717 and Engine NO. AAE014. The sale certificate issued by Darjeeling Automobile P. LTD, Burdwan Road, Siliguri, I find that the vehicle stands in the name of the Jigmee Wangchuk Bhutia.

It is also found from the xerox copy of the certificate of Registration of Transport Department, Govt. of Sikkim that the owner of the vehicle bearing Regd. No. SK-01PD/0868 is Jigmee Wangchuk Bhutia and the registration of the vehicle is valid till 29.09.2037.

The seized vehicle is found to be lying under open sky and if the said seized vehicle is not returned to the petitioner then it would get damaged and thereby the accused/petitioner will suffer irreparable loss and injury. To my understanding, that this seized vehicle bearing Regd. No. SK01PD/0868 should be returned to the petitioner/registered owner.

This Court also relies upon the Judgment reported in **Muktarul Mondal Vs. State of West Bengal (Calcutta) : Law finder Doc Id No. 723667** wherein the Hon'ble High Court at Calcutta was pleased to dispose of the revision application directing the Ld. Judge of the court below to return the seized vehicle to the registered owner on furnishing the Bank Guarantee of Rs.

9,00,000/- on condition that the said registered owner shall not alienate the seized vehicle or change the nature and character of the seized vehicle during the pendency of the criminal case, the registered owner will produce the seized vehicle before the trial court as and when called for and that the registered owner must produce the seized vehicle before the trial court on conclusion of trial to decide whether the seized vehicle is liable to be confiscated or the same will be finally returned to the rightful claimant.

In view of the aforesaid Judgement of the Hon'ble High Court at Calcutta, I am also inclined to return the said seized vehicle bearing Regd. No. SK01PD/0868 in favour of the accused/petitioner.

Considering the aforesaid facts and circumstances, I am inclined to allow the petition filed by the accused/petitioner Jigmee Wangchuk Bhutia. The petition filed by the petitioner/accused / registered owner praying for releasing the seized vehicle to his custody deserves to be allowed.

Hence, it is

ORDERED

that the petition filed by the accused /petitioner Jigmee Wangchuk Bhutia praying for releasing the said seized vehicle bearing Regd. No. SK01PD/0868 along with its key and connected papers to his custody be and the same is considered and allowed.

Accordingly, the seized vehicle bearing Regd. No. SK01PD/0868 along with its key and connected papers be returned to the petitioner/accused/ registered owner Jigmee Wangchuk Bhutia on furnishing the Bank Guarantee of Rs. 3,00,000/- on condition that the said registered owner shall not alienate the seized vehicle or change the nature and character of the seized vehicle during the pendency of this Case. He shall produce the seized vehicle before this court as and when called for and the registered owner/petitioner is further directed that he must produce the seized vehicle before the trial court on conclusion of trial to decide whether the seized vehicle is liable to be confiscated or the same will be finally returned to the rightful claimant or not.

To date (31.01.2024) for evidence.

D&C by me

Sd/-

Judge, Special Court (NDPS)

Kalimpong

Sd/-

Judge, Special Court (NDPS)

Kalimpong