

CNR No. WBHW01-004727-2024
T. R Case No. 20 of 2024

Order No. 21 dated: 27-11-2024.

Today is fixed for hearing of the petition in respect of return of vehicle being No. WB19L-3729, TATA Intra Non-AC(BS-VI), being Engine No. 15CRAJL05GXXS96777, Chasis No. MAT535073NYG33235, filed by Md. Iqbai, being owner of the vehicle.

Ld. PP-in-Charge and Ld. Advocate for Md. Iqbai is present.

Heard both sides.

Perused the case record and submission advanced by the Ld. Advocates.

It is also manifest on scrutiny of the record that on 22-11-2024 the I/O submitted his report in respect of seized vehicle being WB19L-3729, TATA Intra Non-AC(BS-VI), **stating no objection to the release of the concern vehicle.**

In the landmark decision of **Sunderbhai Ambalal Desai vs State of Gujrat, (2002) 10 SCC 283**, the Hon'ble Apex Court laid down broad parameters for considering an application for interim custody of a vehicle. It is now a settled principle that there is no use to keep a seized vehicle in the PS for an indefinite period and the courts are required to return the said vehicle, subject to conditions that they may impose. The whole idea behind such observation of the Hon'ble court is that the owner of the vehicle should not suffer because of it lying unused or by its misappropriation. No other provision of the NDPS Act has been brought to the notice of this court, which bars interim release of the vehicle, even where the owner has been implicated in the offence as one of the accused. At the cost of repetition, section 60(3) of the NDPS Act is no bar for interim release of a vehicle, since such provision is only substantive in nature and speaks of the liability of the vehicle to be confiscated, where the owner fails to prove that such vehicle was used without his knowledge.

Therefore, regard been had to the settled proposition of law and the arguments advanced on behalf of the rival parties, this court opines that the prayer of the petitioner Md. Iqbai, who is undoubtedly the owner of the seized TATA Intra V-30 Non-A/C (BS-VI) vehicle bearing registration no. WB30AJ-3822 is allowed.

Let the seized TATA Intra V-30 Non-A/C (BS-VI) vehicle, bearing registration no. WB30AJ-3822, be given in interim custody of the petitioner Md. Iqbai, upon furnishing a bank grantee of Rs.5,00,000/-, with further conditions as follows:

- (i) The petitioner shall furnish bank guarantee of five lakhs before the trial court.
- (ii) The petitioner shall produce the seized vehicle before the trial court as and when called for during the trial and also during the confiscation proceeding if any such proceeding is initiated.
- (iii) The petitioner shall not alienate the seized vehicle or change its nature and character during the pendency of the case.
- (iv) The seized vehicle shall not be used for the commission of any offence.
- (v) The vehicle, before its release, should be properly photographed and the photograph will be made part of record. Engine number, Chasis Number of the vehicle should be also noted for future reference by the I/O.

The petition filed by Md. Iqbai dated 25-11-2024 is accordingly disposed of.

To date.

**Dictated & Corrected by me Judge, under N.D.P.S Act,
3rd Court, Howrah.
Special Judge. In-Charge**