

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. Cr. C. No.36509/2021

(Sajan Singh S/o Bhagwansingh Sondhiya Vs. State of M. P.)

- 1 -

Indore, dated 23/09/2021

Shri Anirudh Saxena, learned counsel for the applicant.

Shri Sanjay Karanjwala, learned Government Advocate for the respondent / State.

This is an application under Section 482 of Cr. P. C. seeking indulgence of this Court in the matter of release of seized motorcycle bearing registration number MP-70-MC-2277. The applicant was found carrying 4.500 Kilograms *Ganja* on the said vehicle. The trial Court by the impugned order dated 13/02/2020 has declined to release the vehicle on *Supurdginama* for the reason that vehicle was used for carrying contraband as aforesaid. There is no dispute that the applicant is the registered owner of the vehicle.

Learned counsel for the applicant relying upon the judgment of Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat** reported in **(2002) 10 SCC 283** contends that the trial Court since has power to release the vehicle on *Supurdginama*, no useful purpose would be sub served if the vehicle is kept stranded at police station exposed to open weather condition, which may result into deterioration of the vehicle during the pendency of the trial. If the vehicle is released, the same can be maintained and protected from deterioration. The vehicle is not required for conducting the trial and in case of requirement to describe the vehicle, the same could be done with the chassis number, engine number and coupled with registration

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. Cr. C. No.36509/2021

(Sajan Singh S/o Bhagwansingh Sondhiya Vs. State of M. P.)

- 2 -

number. Physical availability of the vehicle is not required. None for the aforesaid factors have been considered by the trial Court. Instead the trial Court declined to release the vehicle for the reason that it was used for carrying 4.500 Kilogram *Ganja*. This by itself cannot be a justification to deny the vehicle on *Supurdginama* in view of the judgment of Hon'ble Supreme Court in the case of **Sunderbhai** (Supra).

Per contra, Shri Karanjwala supports the order impugned. However, does not dispute the preposition of law laid down by the Hon'ble Supreme Court in the aforesaid judgment as contended by learned counsel for the applicant.

Upon hearing learned counsel for the parties, this Court finds substantial force in the submissions canvassed by Shri Saxena. Accordingly, the order passed by the Court below dated 13/02/2020 is set aside with following directions:-

- (i) It is ordered that on furnishing personal bond of **Rs.2,00,000/- (Rupees Two Lacs Only)** with one solvent surety in the like amount to the satisfaction of the trial Court, the aforesaid vehicle shall be handed over to the applicant on *Supurdginama*;
- (ii) whenever it would be required by the competent Court the same will be produced on his own expenses at the place as would be directed in this regard;
- (iii) at the time of release of the vehicle on *Supurdginama*, the aforesaid authority shall ensure to take note of *chassis* number, engine number and registration number of the

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. Cr. C. No.36509/2021

(Sajan Singh S/o Bhagwansingh Sondhiya Vs. State of M. P.)

- 3 -

aforesaid vehicle and keep on record;

- (iv) the applicant shall neither alter or change the condition of the aforesaid vehicle in any manner whatsoever during pendency of the litigation;
- (v) the applicant shall not create any third party rights over the aforesaid vehicle;
- (vi) the applicant shall not fiddle with or scratch or erase numbers engraved in the *chassis* and engine of the vehicle;
- (vii) in the event, all or any of the aforesaid conditions are found to have been violated, the respondent / State is at liberty to move this Court to such modification / variation of the order passed by this Court today.

With the aforesaid, the M. Cr. C. stands disposed of.

E-certified copy as per rules.

(ROHIT ARYA)
J U D G E

Tej