

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 10872/2023

(Arising out of impugned judgment and order dated 14-09-2022 in SBCRMP No. 7249/2022 16-11-2022 in SBCRLMA No. 346/2022 in SBCRMP No. 7249/2022 31-01-2023 in SBCRLMA No. 27/2023 passed by the High Court of Judicature for Rajasthan at Jaipur)

IKRAM

Petitioner(s)

VERSUS

THE STATE OF RAJASTHAN

Respondent(s)

(IA No.66180/2023-CONDONATION OF DELAY IN FILING and IA No.66181/2023-EXEMPTION FROM FILING O.T.)

Date : 10-04-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Abhishek Gupta, AOR
Mr. Kuldeep Yadav, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned.

Heard Mr. Abhishek Gupta, the learned counsel appearing for the petitioner.

The petitioner is shown as a witness and not as an accused in the chargesheet but his truck involved in the incident, has been seized. The prayer for release of the truck was granted requiring the petitioner to first furnish bank guarantee of Rs.5 lakhs and that condition was modified later to deposit title document of property of one Mustkim. The learned counsel submits that these

are onerous conditions and that Court should not have allowed the truck to decay in police custody and should have permitted the owner to secure custody of his vehicle on furnishing bond as security for return of the said vehicle.

Learned counsel relies on *Sunderbhai Ambalal Desai v. State of Gujarat*, (2002) 10 SCC 283 where the following observation was made by the Court in Paras 17 and 21:

"17. 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.

21. However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 Cr.P.C. are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly."

Issue notice, returnable in three weeks.

Dasti, in addition, through Standing Counsel is permitted.

(NITIN TALREJA)
COURT MASTER (SH)

(KAMLESH RAWAT)
ASSISTANT REGISTRAR