

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

Petition(s) for Special Leave to Appeal (Crl.) Nos. 4797-4799/2023

(Arising out of impugned judgment and order dated 14-09-2022 in SBCRLMP No. 7249/2022 16-11-2022 in SBCRLMA No. 346/2022 in SBCRLMP 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.66181/2023-EXEMPTION FROM FILING O.T.)

Date : 04-05-2023 These petitions were called on for hearing today.

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

For Petitioner(s) Mr. Abhishek Gupta, Adv.
Mr. Zafar Inayat, Adv.

For Respondent(s) Mr. Ashutosh Shekhar Paarcha, Adv.
Mr. Milind Kumar, AOR

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Abhishek Gupta, the learned counsel appearing for the petitioner. The State of Rajasthan is represented by Mr. Ashutosh Shekhar Paarcha, the learned counsel.

2. The following order was recorded by this Court on 10.04.2023 when notice was issued:

"

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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."

3. As can be seen, the condition of the truck (Registration No. HR 38-S-9112) which is in police custody, is getting deteriorated day by day. The High Court, while ordering release of the vehicle

initially directed the petitioner to furnish a bank guarantee of Rs.5 lakhs with two sureties to the satisfaction of the court below. The above condition was modified by the later order dated 16.11.2022 and instead of the bank guarantee, the petitioner was directed to deposit original title deed of the land of his close relative.

4. The later order reads as under:

"This application is for modification in the order dated 14.09.2022 passed in S.B. Criminal Misc. Petition No. 7249/2022.

By the said order, interim custody of the seized vehicle was allowed in favour of the petitioner on furnishing of bank guarantee of Rs.5,00,000/- along with two sureties of the like amount.

Learned counsel for the applicant submits that the petitioner is a very poor person and is not in a position to furnish bank guarantee. However, the petitioner is ready to give as guarantee a registered sale deed executed by one Mahphooj Uddin in favour of Mustkim on 30.01.2014. The property lies in the city of Jaipur.

Considering the facts aforesaid, the order dated 14.09.2022 is modified to the extent that instead of bank guarantee, the petitioner would deposit original title deed as referred above along with the affidavit of Mustkim, a close relative of the petitioner that he would be ready to reimburse the cost of the vehicle if needed even by sale/auction of the referred property.

Let the order be communicated to the Court concerned.

The misc. application stands allowed."

5. Considering the circumstances in this case, we deem it appropriate to modify the condition for release of the vehicle by

stipulating that the petitioner would furnish a personal bond together with an undertaking that he will not transfer the vehicle till conclusion of the trial and produce the same as and when required, in connection with the FIR No. 93 of 2022.

6. With the above modification of the impugned order, the Special Leave Petitions stand disposed of.

7. Pending application(s), if any, shall stand closed.

(NITIN TALREJA)
COURT MASTER (SH)

(KAMLESH RAWAT)
ASSISTANT REGISTRAR