

Sheela (Smt.) Vs. State

Sheela (Smt.) Vs. State

SooperKanoon Citation : sooperkanoon.com/772051

Court : Rajasthan

Decided On : Nov-01-2007

Reported in : 2008(3)WLN529

Judge : Ajay Rastogi, J.

Appeal No. : S.B. Criminal Misc. Petition No. 936/2007

Appellant : Sheela (Smt.)

Respondent : State

Judgement :

Ajay Rastogi, J.

1. Instant petition under Section 482, Cr.P.C. has been filed against order dt. 02.05.2007 in Cr. Misc. Appl. No. 5/07 in Sess. Case No. 2/2007 whereby trial Judge (Spl. Judge, NDPS Cases) Jaipur rejected application of petitioner for release of Car (Tata Indica) No. CH-3E-9550 seized during investigation in FIR No. 305/06 lodged at PS Pragpura (Jaipur District) for offence under Section 8/15 NDPS Act.

2. Pendente investigation, Car (Tata Indica) No. CH-3E-9550 of manufacturing year 2001 was seized by investigating agency on 10.09.2006. After challan was filed before trial Court, petitioner filed an application for release of aforesaid

vehicle on superdginama under Section 457, Cr.P.C. pendente trial. Learned trial Judge after taking note of material on record, rejected the application on the premise that this vehicle has been used in commission of alleged offence and during investigation, statements were recoded of alleged other owners (Harprit & Mahendra Lal) of the vehicle and it was alleged that the vehicle was firstly transferred to Harprit and thereafter Harprit further transferred it to Mahendra Lal; in such circumstances there is no reasonable justification come forward to release the vehicle in favour of petitioner and that apart, it may affect trial, as well.

3. Counsel submits that petitioner is registered owner of vehicle in question and no one except him has come forward to claim for release thereof on superdgi whereas other alleged owners Harprit & Mahendralal filed their joint affidavit relinquishing their claim which has been taken note of learned trial Court while passing order impugned and this fact cannot be lost sight of that in case the vehicle is not released in his favour, and remain in police custody duly seized rather by passage of time it may result into a scrape having house for him in future. Counsel further submits that petitioner is neither an accused nor in any manner connected with commission of offence alleged in instant FIR rather otherwise it is hypothecated to the Bank and he is ready to abide by condition which this Court may deem proper to impose for release of the vehicle.

4. Having heard learned Counsel for the petitioner and Public Prosecutor and considered their contention, as also material on record, it is clear that the release of the vehicle was declined by Court below on sole ground that it is one of material evidence and will be required during investigation, inquiry and trial. It is not in dispute that the vehicle is lying in police custody in an open place and chances of its being damaged on account of its exposure to natural effects like sun & rain etc., which is imminent, rather it will diminish its value and also deprive the petitioner of her income.

5. It is a common experience that whenever a vehicle is seized and kept at police station, its condition deteriorates day by day, and one day it becomes a scrap even before trial of the case is concluded and thereby it not only becomes individual loss but also a national loss because if the vehicle is on its wheels then

it is used for transportation and earns revenue to the State also and, therefore, as far as practicable, vehicle should not be permitted to be ruined at police station, as has been held by this Court in Chanduram v. State 1994(2) RLR 307; Deewan Singh v. State 1987(2) RLR 798 & Ranjeet Singh v. State RLW 1996(1) (Raj.) 13. This Court is not satisfied with the justification furnished by Court below in rejecting application filed under Section 457 Cr.P.C.

6. Consequently, this petition is allowed. Orders dt. 02.05.2007 of the Special Judge (NDPS cases), Jaipur is hereby set aside. Taking into consideration all the facts & circumstances of the case, Car (Tata Indica) No. CH-3E-9550 of manufacturing year 2001) seized during investigation in FIR No. 305/06 PS Pragpura for offence under Section 8/15 NDPS Act be released on superdginama and delivered to the petitioner during pendency of investigation, inquiry & trial on production of registration certificate & insurance policy on satisfying following conditions:

(1) Petitioner shall furnish personal bond in a sum of Rs. 3,00,000/- (Three lacs only) with two sureties each of Rs. 1,50,000/- (1.5 lacs) to the satisfaction of the trial Court with the stipulation to produce the vehicle before the trial Court or competent authority during inquiry, investigation and trial as & when ordered/required;

(2) That in the presence of Investigating Officer, she shall get three coloured cabinet size photographs of the, vehicle in question each set showing - (a) number plates; (b) chesis number; (c) engine number; & (d) total body of the vehicle and produce photographs & its negatives alongwith challan before the trial Court;

(3) That she shall not change the colour or alter numbers or tamper with the evidence in any manner and shall not make or allow any changes in its to be made so as to make it unidentifiable;

(4) That without prior permission of the trial Court, he shall not transfer or alienate the said vehicle during pendency of the trial and shall not lease it to anyone;

(5) That if any other person comes forward by way of application claiming for release of vehicle in question, she will surrender the vehicle in question before learned trial Court which may examine respective claims of either of parties for release whereof in accordance with law.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com