



2026:UHC:2663

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p>C528 No.1271 of 2025 <b><u>Hon'ble Alok Mahra, J.</u></b></p> <p>Mr. Harshpal Sekhon, Advocate for the applicant.</p> <p>Mr. Akshay Latwal, A.G.A. and Mr. Prabhat Kandpal, Brief Holder for the State of Uttarakhand.</p> <p>2. By means of the instant criminal miscellaneous application, the applicant seeks quashing of order dated 21.04.2025 passed by learned Special Judge, NDPS Act/1<sup>st</sup> Additional Sessions Judge, Udham Singh Nagar in Misc. Release Application No.145 of 2025. Further relief is prayed for directing respondents to release the seized vehicle bearing registration no.UK06 AU 1761 (HF Deluxe) in favour of the applicant.</p> <p>3. The applicant was arrested in connection with the recovery of 14.23 grams of <i>Smack</i>. In addition to the alleged contraband, aforesaid motorcycle was also seized. It is contended that the applicant moved an application seeking release of the seized motorcycle. The learned trial Court, vide order dated 21.04.2025 rejected the prayer for release of the motorcycle. Aggrieved thereby, the present application has been preferred.</p> <p>4. Learned counsel for the applicant submits that, as per the prosecution case, the motorcycle in question was allegedly used for transportation of contraband; however, no cogent material has been placed on record to substantiate such allegation. There is no prima facie material to establish that the aforesaid motorcycle was used for illegal transportation of narcotic substances. It is argued that the vehicle was merely a mode of conveyance</p>



			<p>for the applicant and cannot ipso facto be treated as instrumental in the commission of the alleged offence. It is also submitted that the vehicle has been lying in the custody of the police since 25.02.2025 and continued detention would result in its deterioration and depreciation in value.</p> <p>5. Reliance is placed on the judgment of the Hon'ble Supreme Court in <i>Sunderbhai Ambalal Desai v. State of Gujarat</i>, reported in (2002) 10 SCC 283, wherein it was held that prolonged retention of seized vehicles at police stations serves no fruitful purpose. The Magistrate must pass immediate orders for interim release upon appropriate bond, guarantee, or security, to prevent loss or depreciation.</p> <p>6. Per contra, learned State Counsel submits that, upon completion of investigation, the vehicle was found to be involved in the illegal transportation of contraband and, accordingly, proceedings for confiscation have been initiated, and the vehicle remains in the custody of the concerned police station.</p> <p>7. Heard learned counsel for the parties and perused the material available on record. The ratio laid down in <i>Sunderbhai Ambalal Desai Vs. State of Gujarat</i> squarely applies to the facts of the present case, particularly with regard to expeditious release of seized vehicles to prevent undue hardship and avoid deterioration, subject to appropriate safeguards.</p> <p>8. In view of the foregoing discussion, the impugned order dated 21.04.2025 is liable to be quashed and is hereby quashed.</p> <p>9. Consequently, the Criminal Miscellaneous Application stands allowed. The competent authority is directed to release the aforesaid motorcycle in favour of the applicant/registered owner forthwith,</p>
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subject to his furnishing adequate bonds and sureties to the satisfaction of the Court concerned and upon his undertaking that: (i) he shall produce the vehicle as and when required during investigation or trial; (ii) he shall not transfer, alienate, or create any third-party interest in the vehicle without prior permission of the Court; and (iii) he shall maintain the vehicle in proper condition. It is made clear that such release shall not prejudice the trial pursuant to F.I.R. No.57 of 2025.

**(Alok Mahra, J.)**

15.04.2026

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