

CRA-S-114-SB-2015

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: 20.03.2015

Jatinder Singh

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. R.P. Dhir, Advocate, for the appellant.
Mr. S.S. Chandumajra, DAG, Punjab.

PARAMJEET SINGH, J.

Instant criminal appeal has been filed against the order dated 01.12.2014 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur, vide which the application of the appellant for release of Swift Maruti Car No.PB-10-BF-0919 on sapurdari, which was impounded in case FIR No.135 dated 26.05.2014 registered under Sections 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act at Police Station Tanda, District Hoshiarpur, has been dismissed.

Brief facts for disposal of the present case are that appellant is the owner of the aforesaid vehicle. On 26.05.2014 when appellant was driving the aforesaid vehicle in the area of Police Station Garhdiwala, during search, from the left pocket of trouser of the appellant one glazed

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paper was seized from which 35 grams of intoxicating powder was recovered. As a result of it FIR was registered and vehicle in question was taken into custody and in case of conviction it is liable to be confiscated. The trial in the case is going on. Appellant moved application for releasing the said vehicle on sapurdari, which has been dismissed vide impugned order by Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur. Hence, this appeal.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the appellant vehemently contended that appellant has been roped in a false case. Learned counsel for the appellant further contended that alleged recovery was effected from the left pocket of trouser of the appellant, which was non-commercial. No search of the vehicle was conducted nor the vehicle was the subject matter of the case. Learned counsel submits that conclusion of trial will take a long time and in case car is not released, it will not only cause damage to its condition but the appellant will also face difficulty in his day-to-day functioning and police is mis-using the vehicle. Learned counsel for the appellant submits that appellant is ready to give an undertaking that as and when the Court requires the aforesaid car, he will produce the same in the same condition before the concerned Court. In support of his contentions, learned counsel for the appellant placed reliance on the judgment of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai v. State of Gujarat, 2003(1) R.C.R. (Criminal) 380*** and

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the judgments of this Court in *Harpreet Singh v. State of Punjab, 2006 (4) R.C.R. (Criminal) 719* and *Kulwant Singh v. State of Haryana, (2008) 1 R.C.R. (Criminal) 828(2)*.

On the other hand, learned counsel for the State contended that car in question was being used as a conveyance by the appellant to carry narcotic substance along with him. Therefore, appellant is not entitled for sapurdari of the car in question.

I have considered the contentions raised by learned counsel for the parties.

Undisputedly, the trial in the aforesaid case is still pending before the trial Court. The question of confiscation of the vehicle in question will be considered along with the main case. At present, the vehicle is standing in the police station. No useful purpose will be served, if it is allowed to remain in the police station and it will also result into damage to its condition.

Keeping in view the facts and circumstances of the case and the law laid down by Hon'ble Supreme Court in *Sunderbhai Ambalal Desai* (supra) and in view of the undertaking given by the appellant, as indicated above, it will be in the interest of justice if the said vehicle is ordered to be given on sapurdari to the appellant on his furnishing proper undertaking.

Accordingly, this appeal is allowed. Impugned order dated 01.12.2014 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur, is set aside and the vehicle in question is

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ordered to be released on sapurdari to the appellant on his executing indemnity bond to the satisfaction of trial Court with one surety in the like amount and the undertaking to the effect that as and when the trial Court requires the abovesaid car, the appellant will produce the same in the same condition at his own cost before the concerned Court. He shall also furnish undertaking to the effect that in future, he will not allow his aforesaid vehicle to be used for such an offence. Trial Court will also be at liberty to impose other conditions as may deem fit.

(Paramjeet Singh)
Judge

March 20, 2015
R.S.