

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

237

Crl. Misc. No.M-18327 of 2015

Date of decision: 01.09.2015

Subash Kumar

....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. Vivek Rattan, Advocate for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 482 Cr.P.C. for setting aside the impugned order dated 07.04.2015(Annexure P-1) passed by learned Additional Sessions Judge, Jalandhar whereby an application for releasing the Truck 3118 Ashoka Leyland bearing registration No.PB-10-CX-6821 on superdari has been dismissed.

Learned counsel for the petitioner contends that challan has been presented and the truck is lying in the police station since 19.01.2015. He

also submits that the petitioner is the registered owner of the vehicle and alleged recovery of opium and poppy husk was effected from Balbir Singh @ Baba and Prem Kumar who are already in custody. He also submits that the petitioner was earning his livelihood by plying said truck and he does not have any other source of income to meet out the daily expenses of his family. He also submits that the petitioner was not aware regarding recovery of alleged opium and poppy husk from his vehicle and there was no consent from his side to use the vehicle. He also submits that the petitioner is ready to produce the alleged truck as and when required and moreover, by keeping it in police custody, no useful purpose would be served as the condition of the vehicle is deteriorating day-by-day.

Learned State counsel submits that the truck being the case property is required to be produced during pendency of the trial.

Heard arguments advanced by learned counsel for the parties and have also perused the documents available on record.

Admittedly, the petitioner is registered owner of the vehicle and the alleged recovery was effected from the truck which was being driven by accused, namely, Balbir Singh @ Baba and Prem Kumar who are in custody, only challan has been presented and the charges have not been framed so far. Trial may take some time to conclude.

As per the submissions made by learned counsel for the petitioner, no consent of the petitioner was obtained for using of the vehicle before commission of the alleged offence and petition is not connected with the alleged offence.

Keeping in view the submissions made by learned counsel for the parties and also the fact that truck is lying in the police premises since 19.01.2015 and no useful purpose would be served by keeping the truck in police custody. Moreover, the petitioner is ready to produce the truck as and when required and he is ready to surrender before the trial Court as and when required.

Accordingly, the petition is allowed and the trial Court is directed to release the aforesaid vehicle on superdari on furnishing adequate surety and undertaking after verification of documents of ownership.

(DAYA CHAUDHARY)
JUDGE

September 01, 2015
sonia g.