

Crl. Misc. No. M-8239 of 2015

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

Crl. Misc. No. M-8239 of 2015

Date of decision: 16.07.2015

Baljit Singh

....Petitioner

Versus

State of Punjab

....Respondent

Crl. Misc. No. M-8262 of 2015

Sher Singh

....Petitioner

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. Amit Mehta, Advocate, for the petitioners.
Mr. D.S. Mann, AAG, Punjab.

PARAMJEET SINGH, J.

This order shall dispose of Crl. Misc. No. M-8239 of 2015 titled 'Baljit Singh v. State of Punjab' and Crl. Misc. No. M-8262 of 2015 titled 'Sher Singh v. State of Punjab' as both the petitions arise from the same orders.

Instant petitions have been filed against the order dated 21.02.2015 passed by learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar and order dated 11.12.2014 passed by learned

Crl. Misc. No. M-8239 of 2015

Judicial Magistrate Ist Class, Shaheed Bhagat Singh Nagar, whereby applications for release of Tippers bearing registration Nos.PB-10-EH-5311 and PB-12-Q-1741 on sapurdari, which were impounded in case FIR No.147 dated 26.11.2014 registered under Sections 379 IPC and 21 of the Mining Act, 1957 at Police Station Rahon, District Shaheed Bhagat Singh Nagar, have been dismissed.

Brief facts for disposal of the present case are that petitioners are the owners of the aforesaid vehicles. As per prosecution version aforesaid vehicles were apprehended by the police personnel of Police Station Rahon, District Shaheed Bhagat Singh Nagar on the allegation that petitioners were bringing the tippers filled with sand after stealing it from the Government land. As a result of it FIR was registered and vehicles in question were taken into custody and in case of conviction it is liable to be confiscated. Petitioners moved applications for releasing the said vehicles on sapurdari, which have been dismissed vide impugned orders. Hence, these petitions.

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

Learned counsel for the petitioners vehemently contended that petitioners have been roped in a false case. In the same case, total 17 vehicles were apprehended by the police, out of which 15 vehicles have already been released by the trial Court on Sapurdari. It is admitted case of the prosecution that at the time of taking the vehicles in question in custody, same were empty and were not transporting any material of any

Crl. Misc. No. M-8239 of 2015

kind. Learned counsel submits that conclusion of trial will take a long time and in case tippers are not released, it will not only cause damage to their condition but the petitioners will also face difficulty in their day-to-day functioning and police is mis-using the vehicles. Learned counsel for the petitioners submits that petitioners are ready to give undertaking that as and when the Court requires the aforesaid vehicles, they will produce the same in the same condition before the concerned Court. In support of his contentions, learned counsel for the petitioners 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 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 tippers in question were being used for illegal mining. Therefore, petitioners are not entitled for sapurdari of the tippers 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 vehicles in question will be considered along with the main case. At present, the vehicles are standing in the police station. No useful purpose will be served, if these are allowed to remain in the police station and it will also result into damage to their condition.

Crl. Misc. No. M-8239 of 2015

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 petitioners, as indicated above, it will be in the interest of justice if the said vehicles are ordered to be given on sapurdari to the petitioners on their furnishing proper undertaking.

Accordingly, these petitions are allowed. Impugned orders dated 21.02.2015 passed by learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar and order dated 11.12.2014 passed by learned Judicial Magistrate Ist Class, Shaheed Bhagat Singh Nagar, are set aside and the vehicles in question are ordered to be released on sapurdari to the petitioners on their executing indemnity bonds to the satisfaction of trial Court with one surety each in the like amount and the undertaking to the effect that as and when the trial Court requires the abovesaid tippers, the petitioners will produce the same in the same condition at their own cost before the concerned Court. They shall also furnish undertaking to the effect that in future, they will not allow their aforesaid vehicles to be used for such an offence. Trial Court will also be at liberty to impose other conditions as it may deem fit.

(Paramjeet Singh)
Judge

July 16, 2015
R.S.