

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

CRR No.1671 of 2015

Date of Decision: May 27, 2015

Gurpreet Singh alias Gona

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. C.S. Brar, DAG, Punjab.

FATEH DEEP SINGH, J.

This revision petition by the accused Gurpreet Singh @ Gona is against an order dated 12.02.2015 passed by the trial Court of learned Additional Sessions Judge, Sri Muktsar Sahib refusing to release the tractor bearing registration No.PB-30K-7806, Chasis No.DZUDV-324857S3, Engine No.4100DL23L323215F9 owned by the revisionist taken into police possession in case bearing FIR No.78 dated 22.10.2013 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act (for short, 'the Act') at Police Station Kabarwala.

Heard learned counsel for the parties. It is the case of the prosecution that the vehicle in question was involved in ferrying 03 quintals, 60 kgs of poppy husk when it was apprehended, however, it is admitted by the State that petitioner-Gurpreet Singh who is the registered owner of the tractor trolley was earlier found innocent during the investigations by the police

and subsequently has been summoned under the provisions of Section 319 Cr.P.C. The prima facie allegations show the involvement of the vehicle in transportation of the narcotic substance, however, the contentions of the counsel for the petitioner that the tractor trolley being an essential implement to carry on agricultural activities of the petitioner is required for day to day activities, especially, in the light of forthcoming paddy season and that at this juncture it cannot be held as to the involvement of the vehicle in question which is the subject matter of trial after the prosecution leads its evidence. The same is opposed by the State counsel. It is the prerogative of the State to get the vehicle confiscated in terms of Section 60 of the Act and, thus, at this juncture, it is highly unjust and unfair to holdback the vehicle in question as it will not only be prejudicial to the agricultural activities and economic interest of the petitioner but also by keeping the vehicle in Police Station there is every likelihood that it will lose its value and utility and, thus, not only personal loss but national loss as well will accrue.

The impugned order certainly is merely on the premise that the vehicle was used in the commission of offence, as such, refused to be released on sapurdari.

In view of these discussions, the impugned order being illegal and unjust is set aside by way of acceptance of instant revision petition. However, to safeguard the interest of the State, it would be essential to issue directions to the trial Court that before release of the vehicle on sapurdari to ensure undertaking is given by the petitioner that he would produce the vehicle on each and every date of hearing and would not sell/create any charge on this

vehicle nor would change its colour, number and would also not challenge the identity of the vehicle and to ensure that the original registration certificate is not released being vital piece of the evidence but to direct the concerned Police Station to issue certificate regarding registration certificate being on police file.

The present petition stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

May 27, 2015
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