

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**Crl. Revision No. 2280 of 2015
Date of decision : 17.08.2015**

Subhash Singh

..... Petitioner

versus

State of Punjab

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Deepak Bhardwaj, Advocate
for the petitioner

Mr. Deep Singh, AAG Punjab

ANITA CHAUDHRY, J. (ORAL)

This is a petition under Section 482 Cr.P.C. challenging the order dated 25.5.2015 passed by the trial Court whereby the application moved by the petitioner seeking release of his vehicle has been dismissed.

Notice of motion was issued to the State. Reply has been filed.

A case under the NDPS Act was registered against the son of the petitioner and the vehicle owned by the petitioner was taken into possession by the police.

In ***Sunderbhai Ambalal Desai vs. CM Mudaliar AIR 2003 Supreme Court 638***, the Hon'ble Supreme Court framed the following guidelines regarding the case property:-

“The powers under Section 451 Cr.P.C. should be exercised expeditiously and judiciously. It would serve purposes namely:-

1. Owner of the article would not suffer because of

its remaining unused or by its misappropriation.

2. Court or the police would not be required to keep the article in safe custody;

3. If the proper panchanama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and

4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.”

The trial Court has dismissed the application in view of the provisions contained in Section 52-A of the NDPS Act.

The police in their reply had submitted that the vehicle was not required for investigation and had given their no objection to the release.

Undisputedly trial in the case is pending. The question of confiscation of the vehicle will be considered at the end of the trial. The vehicle is standing in the police station and it would be damaged if it is allowed to remain in the police station.

This Court in authorities ***Nirmal Singh Versus State of Punjab, 2007(1) RCR (Criminal) 986, Balbir Singh @ Fauji Versus State of Punjab 2010(1) RCR (Criminal) 908 and Dalbir @ Pappu @ Dara Versus State of Haryana 2012(2) RCR (Criminal) 495*** have allowed the vehicle on superdari till the decision of the case.

The revision petition is allowed. Impugned order passed by the Court below is set aside and the vehicle is ordered to be

released on sapurdari to the petitioner on his furnishing indemnity bond and surety bonds to the like amount and on the terms which may be imposed by the trial Court.

August 17, 2015

reena

**(ANITA CHAUDHRY)
JUDGE**