

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

CRA-S-1570-SB-2016(O&M)

Date of Decision:-13.07.2016.

Raman Kumar

.....Appellant

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Ms. Jasneet Mehra, Advocate for the appellant.

Mr.Sultan Singh Gill, DAG, Punjab.

HARI PAL VERMA, J. (ORAL)

CRM-13030-2016

This is an application seeking condonation of delay of 122 days in filing the present appeal.

For the reasons stated in the application, same is allowed and delay of 122 days in filing the present appeal is condoned.

CRA-S-1570-SB-2016

Appellant has filed the present appeal against the judgment dated 12.10.2015 passed by the learned Judge, Special Court, Amritsar, whereby the prayer of the appellant for release of Maruti car bearing registration No.PB-08-BC-0694, on *superdari* was declined.

Learned counsel for the appellant states that the appellant is registered owner of the car and earlier it was in the name of one Pawan Kumar son of Sh. Ram Tirath. He further submits that a fresh certificate of registration was issued by the Registry Authority which shows his ownership. Learned trial Court dismissed the application of the appellant only on the ground that he had concealed the fact of the earlier applications for superdari and this was his third application and further on the ground that no further progress qua investigation was there. He also submits that despite the case having been registered on 08.11.2014, the investigation has yet not been completed. He prays that since the vehicle is not being used, the same be released to him.

Learned counsel for the State, on instructions from ASI-Paljinder Singh states that case FIR No. 213 dated 08.11.2014, under Sections 21 of the NDPS Act and 61/1/14 of the Excise Act registered at Police Station Gate Hakima, Amritsar is still under investigation.

I have heard learned counsel for the parties.

Hon'ble the Supreme Court in the case of Sunderbhai Ambalal Desai v. State of Gujarat 2003(1) RCR (Criminal) 380, has laid down certain guidelines for release of impounded vehicles which are reproduced as under:-

“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 panchnama 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.”

Since the vehicle in question is a case property from 08.11.2014 and the vehicle is not being put to use, its value is going to be depreciated day by day.

Accordingly, the present appeal is allowed. The impugned order dated 12.10.2015 is set aside and the vehicle in question is ordered to be released to the petitioner, on superdari, on his furnishing indemnity bonds/surety bonds of the like amount or on the terms and conditions which may be imposed by the trial Court.

The appellant shall submit an undertaking that the said vehicle shall not be put to any illegal use in future and he will produce the vehicle in the Court, if so required.

It is made clear that if the petitioner is found indulged in any other case under the NDPS Act/Punjab Excise Act and the vehicle in question is used in the said offence, the petitioner would be debarred to approach the Court for release of vehicle.

July 13, 2016
Anjal

(HARI PAL VERMA)
JUDGE