

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

**CRM No. M-16665 of 2013
DECIDED ON: SEPTEMBER 26, 2016**

AMAR NATH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

JASPAL SINGH, J

By virtue of instant petition preferred under Section 482 Cr.P.C., petitioner-Amar Nath has sought the setting aside of order dated April 22, 2013 (Annexure P-3) passed by learned Judge, Special Court, Mansa, whereby, an application dated February 26, 2013 (Annexure P-2) filed by the petitioner for the return of currency notes of ₹5,00,000/- on superdari, has been dismissed.

The facts giving rise to the instant petition are that on April 18, 2012, on the basis of a secret information FIR No. 72, dated April 18, 2012, under Section 22 of the NDPS Act, was registered at Police Station City Mansa, District Mansa. Subsequent thereto, Raj Kumar and Deepak Kumar were apprehended from which the 5 bowls of Rexcof as well as 15 strips of Carisol tablets were recovered; besides, currency notes to the tune of ₹5,00,000/-.

Neither Raj Kumar nor Deepak Kumar in the said case moved an application for

superdari. Rather an application for obtaining the currency notes to the tune of ₹5,00,000/- was moved by Amar Nath father of one of the accused Raj Kumar, which was dismissed vide order dated April 22, 2013.

The contention of learned counsel for the petitioner is that as per the case of prosecution, at the time of arrest of Raj Kumar and Deepak Kumar, currency notes to the tune of ₹5,00,000/- were recovered. Since both the accused were in custody the father of Raj Kumar preferred an application for obtaining those currency notes on superdari. The impugned order dated April 22, 2013 is absolutely against the settled provisions of law. As per Section 451 of the Code of Criminal Procedure, the case property is required to be dealt with and disposed of as early as possible.

While relying upon the judgement of Hon'ble Apex Court rendered in the case of **Sunderbhai Ambalal Desai v. State of Gujarat; AIR 2003 Supreme Court 638(1)**, it has further been contended by learned counsel for the petitioner that the procedure for disposal of seized articles and currency notes, vehicles, seized liquor and Narcotics drugs suggested. Further Magistrate directed to pass appropriate orders immediately and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. The said object can also be achieved if there is proper supervision by the Registry of the concerned High Court in seeing that the rules framed by the High Court with regard to such articles are implemented properly. But in the case in hand the afore-said provisions has not been properly adhered to. Even, otherwise, the declining of superdari application of the seized currency notes is not legally justified.

This Court has given a deep thought to the afore-said submission made by learned counsel for the petitioner but find the same to be without any legal weight. In the case in hand currency notes are alleged to have been recovered from the possession of Raj Kumar and Deepak Kumar when they were subjected to personal search and at that time; besides, the currency notes the narcotics drugs were also recovered regarding which FIR was registered and both the accused were arrested and are facing trial before the Judge, Special Court, Mansa. No doubt, petitioner is the father of one of the accused Raj Kumar but there is no explanation as to why, the accused has not moved any application for superdari.

Similarly, no explanation has been furnished even by the petitioner about the source of the said amount. Moreover, under the provisions of Section 68 of the NDPS Act currency notes can be termed to be a case property and are liable to be confiscated at the time of final disposal of trial. Thus, in the considered facts and circumstances, this Court does not find any merit in the instant petition. Otherwise, also there is no illegality or impropriety in the impugned order dated April 22, 2013. Rather the same can be said to be absolutely in consonance with the legal proposition.

In the light of what has been discussed above, instant petition is dismissed.

However, Senior Superintendent of Police, Mansa is directed to get the FDR prepared and deposit the same with Chief Judicial Magistrate, Mansa, which shall be dealt with and disposed of as per the decision taken by the Judge, Special Court, Mansa. The needful be done within a period of two months from

the date of certified copy of this order.

Copy of the order be sent to the concerned authorities for its compliance.

SEPTEMBER 26, 2016
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(JASPAL SINGH)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>