

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-32404-2016 (O&M).

Decided on: September 16, 2016.

Gurpreet Singh

.. Petitioner(s)

VERSUS

State of Punjab

.. Respondent(s)

* * *

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

* * *

PRESENT Mr.Rohit Sharma, Advocate,
for the petitioner.

M.M.S. BEDI, J. (ORAL)

Legality and propriety of order dated 10.2.2016, has been questioned by filing the present petition under Section 482 Cr.P.C.

The application of the petitioner for release of Truck bearing registration No.HR-37-A-8343, on spurdari, has been dismissed, inter alia, on the ground that the truck is likely to be used for the commission of offence i.e. for transporting narcotic substances and that the alleged recovery of 60 kgs. of poppy husk from the truck was a commercial quantity.

Notice to the Advocate General, Punjab.

On asking of the Court, notice has been accepted by Ms.H.K.Athwal, DAG., Punjab, present in the Court. Copy given.

Counsel for the petitioner submits that the petitioner is owner of the truck. He has been arrayed as accused and charged under Section 15 of the NDPS Act. The trial Court appears to have ignored the observations of Hon'ble the Apex Court in Sunderbhai Ambalal Desai

Vs. State of Gujarat AIR 2003 SC 638, in context to the provisions of Section 451 Cr.P.C., observing that the said power should be exercised expeditiously and judiciously and that Court or the police should not keep the articles during pendency of the trial. Following the parameters and principles laid down in said judgment, it is observed that the vehicle could have been released to the petitioner on spurdari, if he is the owner, by imposing any reasonable conditions upon him even pertaining to the user of the truck.

The petition is allowed. Impugned order dated 10.2.2016 is set aside. It is ordered that the above said truck will be released to the petitioner after confirming the ownership subject to any conditions imposed and to be incorporated in the spurdarinama. In case of violation of any of the conditions, it will be open to the Court to cancel the spurdari and direct the spurdar to produce the vehicle.

(M.M.S. BEDI)
JUDGE

September 16, 2016.

rka

Whether speaking / reasoned
Whether Reportable:

Yes / No
Yes / No