

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-38572 of 2015

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Date of decision:25.4.2016

Manjit Singh alias Gabbar

.....Petitioner

v.

State of Punjab

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Harkeerat Singh, Advocate for the petitioner.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent-State.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. read with Section 397 Cr.P.C. with a prayer for seeking setting aside of the order dated 17.12.2014 (Annexure-P.4) passed by Judge, Special Court, Ferozepur, whereby application for the release of personal search articles of the petitioner has been dismissed, which were recovered in FIR No.300 dated 21.11.2013, Police Station Sadar, Ferozepur registered for the offences under Sections 21 and 25 of the NDPS Act, which having been passed with material irregularity, illegality and perverse and is an abuse of process of law.

Notice of motion was issued in this case.

Ms. Shivali, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this

petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that an application was filed by the petitioner-accused Manjit Singh alias Gabbar for release of personal search articles to him, which were taken into possession during investigation of case FIR No.300 dated 21.11.2013 registered at Police Station Sadar, Ferozepur. It is stated in the application that the applicant had sold his car make Scorpio to one Satnam Singh son of Jeet Singh and he was on way to purchase a new car, but the case was planted upon him and an amount of ₹4 Lacs in cash was recovered from the dash board of the car, in which he was travelling and a sum of ₹7,000/- in cash was recovered from personal search of the applicant/accused.

The learned Judge, Special Court, Ferozepur, held that the said currency allegedly recovered from the applicant is involved in the case in which recovery of contraband was effected and the Police has not recommended for the release of the said currency to the applicant. The order dated 17.12.2014 passed by the learned Judge, Special Court, Ferozepur is correct as per law. The amount of ₹4 Lacs recovered from the dash board of the car cannot be held as from the "Jama Talashi", rather, it is a case property and as per the reply, the prosecution evidence has also been completed and the statement of the accused has also been recorded and the case is fixed for defence evidence, which means the trial is almost complete.

This fact whether this currency recovered from the dash board etc. is liable

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to be confiscated or to be returned is to be decided on merit while deciding the case and the currency notes cannot be released at this stage by treating it as recovered from the personal search "Jama Talashi". Therefore, from the above, I find that the order passed by the learned Judge, Special Court is correct as per law and no illegality has been committed and the same is upheld.

Finding no merit in this petition, the same is dismissed.

However, the learned trial Court is directed to pass specific order on merit at the time of deciding the case regarding these currency notes.

April 25, 2016.

(Inderjit Singh)
Judge

hsp