

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

**CRR No.197 of 2016 (O&M)
Date of Decision: March 15, 2016**

Roopinder Kaur

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

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

Mr. Sidakmeet Sandhu, AAG, Punjab.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

CRM-1642-2016

There is delay of 9 days in filing the present revision petition.

For the reasons mentioned in the application, delay of 9 days in filing the present revision is condoned.

Application stands disposed of.

Main Case

Impugned in the present revision petition is the order dated 06.10.2015 passed by the Special Court, S.A.S. Nagar, Mohali, vide which the application of the present petitioner for releasing her car bearing registration No.HR-03-R-6632 on sapurdari was dismissed on the ground that the same is liable to be confiscated to the State as per provisions of Section 60(3) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act').

I have heard learned counsel for the parties and have also carefully gone through the case file.

Reply of the State was also obtained, which has opposed the prayer of releasing the car on sapurdari.

It comes out that from the car in question, 16 grams of heroin was recovered. It is also not disputed that the present petitioner is the owner of the said car. The lower court has dismissed the application of the petitioner for release of her car on sapurdari on the ground that the said car is liable to be confiscated to the State as per provisions of Section 60(3) of the NDPS Act.

Section 60(3) of the NDPS Act is reproduced as under:

“ Any animal or conveyance used in carrying any narcotic drug or psychotropic substance 2 [or controlled substance], or any article liable to confiscation under sub-section(1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.”

A perusal of the Section shows that the car would be liable to be confiscated only when the prosecution is able to prove its case in court. It being so, merely because of the fact that the car would be liable to be confiscated, if the offence is proved, the same cannot be kept in the police station for indefinite period. It is common knowledge that there is no proper place in the police station for

parking the vehicle. If the vehicle is kept idle, it is likely to be damaged. Therefore, pending the trial and till the prosecution proves its case, it is deemed proper that the vehicle should be released on sapurdari, subject to certain conditions.

Accordingly, the impugned order is set aside and the car of the present petitioner is ordered to be released on sapurdari on her furnishing sapurdginama in the sum of ₹6,00,000/- with one surety of the like amount to the satisfaction trial court, subject to the following conditions:

1. The car will be produced in the Court during evidence.
2. The petitioner will not change the appearance or colour of the car.
3. She will produce the car before the court, if ultimately the court finds that it is liable to be confiscated.
4. Car will not be sold during trial.

As such, the present revision petition stands allowed.

March 15, 2016
sarita

(KULDIP SINGH)
JUDGE