

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 3555 of 2015 (O&M)
DECIDED ON: JANUARY 12, 2016

LAKHBIR SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether Reporters of local papers 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?*

Present : Mr. Deepak Bhardwaj, Advocate
for the petitioner.

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

JASPAL SINGH, J. (ORAL)
CRM No. 31134 of 2015

Application is allowed, as prayed for.

CRR No.3555 of 2015

Challenge in this revision petition is to order dated July 31, 2015, passed by Judge, Special Court, Patiala, whereby, an application for releasing of truck bearing registration No. MP-09-HG-4234 on superdari was dismissed.

2. Concededly, petitioner is the registered owner of truck bearing registration No. MP-09-HG-4234, who had applied for obtaining the same on superdari subject to the condition, if any to be imposed by learned Trial

Court.

3. As per the case of prosecution, 2 Kgs 600 gms of Opium was recovered from the vehicle in question regarding which FIR No. 126 dated October 26, 2013 under Section 18/61/85 of NDPS Act (for brevity 'Act 1985') was registered at Police Station Ghagga. The police had no objection in case vehicle in question is released to the petitioner i.e. the registered owner, but learned trial Court has declined the release of vehicle on superdari simply on the ground that Opium weighing 2 kgs 600 gms, which falls within the purview of commercial quantity has been recovered.

4. Be that as it may, ownership of the vehicle of petitioner is an admitted fact, which is also otherwise not required by investigating agency for any further investigation. The same is lying in the police station and hence, likely to be damaged with the passage of time. The mere fact that 2 kgs 600 gms of opium was allegedly recovered from the vehicle in question is itself no ground to decline the release of vehicle on superdari.

5. In **Sunderbhai Ambalal Desai v. State of Gujarat; 2003 (1) RCR (Crl.) 380**, it was observed that normally the vehicles should not be retained for a long time in custody, as its machinery, colour and tyres are likely to be damaged. Similar, observation was made by this Court in **Harpreet Singh v. State of Punjab; 2006 (4) RCR (Crl.) 719 (P&H); Roop Chand and Company v. State of Punjab; 1996 (1) RCR (Crl.) 401 (P&H); Nirmal Singh v. State of Punjab; 2007 (1) RCR (Crl.) 986 and Pardeep Kumar v. State of Punjab; 2013 (4) Law Herald 3612.**

6. In all these cases the request of petitioner i.e. registered owner for the release of vehicle on superdari in a case under the provisions of Act

1985 was allowed.

7. In the light of aforesaid facts and discussion as well as undertaking given by the petitioner, the instant revision petition is allowed and impugned order dated July 31, 2015 is set aside. Vehicle bearing registration No. MP-09-HG-4234 is ordered to be released on superdari to the petitioner on executing personal bond/surety bond to the satisfaction of learned trial Court/Duty Magistrate, Patiala.

JANUARY 12, 2016
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(JASPAL SINGH)
JUDGE