

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

**Criminal Revision No.3686 of 2015
Date of Decision:-07.01.2016**

Tarsem Singh @ Sheru

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Gurinderjit Singh, Deputy A.G., Punjab.

HARI PAL VERMA J.(Oral)

The petitioner has filed the present revision petition challenging the order dated 26.8.2015, whereby the learned Judge, Special Court Tarn Taran has declined the application filed by the petitioner for the release of his car bearing registration No.PB-46-T-4206 on superdari. The vehicle in question was impounded in FIR No.202 dated 31.10.2014, under Section 22 of the NDPS Act, registered at Police Station Jhabal, District Tarn Taran.

The aforesaid FIR was registered against the petitioner on the allegation that he is indulged in the business of selling intoxicants

substances. When he was coming in a silver coloured Alto car to supply the consignment of intoxicant substances to his customer, a trap was laid down. The petitioner was driving the said car and was apprehended with the intoxicants. On making of his personal search, 700 grams of intoxicant powder was got recovered from his possession.

Learned counsel for the petitioner contends that the petitioner had moved an application for superdari of the said vehicle. He relies upon judgment in case **Sunderbhai Ambalal Desai vs. State of Gujarat 2003 (1) RCR (Criminal) 380** wherein the Hon'ble Supreme Court has laid down certain guidelines for release of vehicles, which are reproduced as under:-

1. Owner of the article would not suffer because of its remaining unused or by its misappropriation.
2. Court or the police would not be required to keep the article in safe custody;
3. If the proper panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and
4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.

The trial Court has dismissed the application in views of the provision of Section 52(A) of the NDPS Act.

Learned State counsel submits that even if the intoxicant substance was found from the personal search of the petitioner, the petitioner was found indulged in three more cases and therefore, in case

the vehicle in question is released on superdari, there is possibility of the same being used in supply of intoxicants again. Learned State counsel has filed the custody certificate of the petitioner, which depicts the pendency of another case after the registration of the present one.

Heard.

Undisputedly trial in the case is pending. The question of confiscation of the vehicle will be considered at the end of the trial. The vehicle is standing in the police station and would be damaged if it is allowed to remain in the police station.

This Court while relying upon the case of **Sunderbhai Ambalal Desai's case** (supra) as well as ***Criminal Revision No.2280 of 2015*** titled '**Subhash Singh vs. State of Punjab**' decided on 17.8.2015, has considered the similar controversy and has allowed the vehicle on superdari till the decision of the case.

Accordingly, the revision petition is allowed. The impugned order passed by the Court below is set aside and the vehicle is ordered to be released on superdari to the petitioner on his furnishing indemnity bond and surety bonds to the like amount and on the terms which may be imposed by the trial Court.

It is made clear that if the petitioner is found indulged in any other case under the NDPS Act and the vehicle in question is also used, the petitioner would be debarred to approach the Court for superdari of vehicle.

January 07, 2016
Vijay Asija

(**HARI PAL VERMA**)
JUDGE