

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 4645 of 2015 (O&M)
DECIDED ON: JANUARY 07, 2016

ANIL KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether the Reporters of the Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or?
3. Whether the judgment should be reported in the digest?

Present : Mr. S.S. Gill, Advocate
for the petitioner.

Mr. S.S. Pannu, DAG, Haryana

JASPAL SINGH, J. (ORAL)

CRM No. 39150 of 2015

Application is allowed, as prayed for.

CRR No. 4645 of 2015 (O&M)

Challenge in this revision petition is to order dated November 17, 2015, passed by learned Additional Sessions Judge, Kurukshetra, whereby, an application for releasing of Tralla bearing registration No. HR-37-D-3169 on superdari was dismissed.

2. Concededly, petitioner is General Power of Attorney holder of Sunil Kumar @ Sonu i.e. registered owner of tralla bearing registration No.

HR-37-D-3169, 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, 20 kgs of Poppy Husk was recovered from the vehicle in question regarding which FIR No. 143 dated October 21, 2015 under Section 15 of NDPS Act, 1985 (for brevity 'Act 1985'). The police had no objection in case vehicle in question is released to the petitioner who is the General Power of Attorney holder of Sunil Kumar @ Sonu i.e. registered owner, but learned trial Court has declined the release of vehicle on superdari simply on the ground that petitioner is not the registered owner of the vehicle in question.

4. The vehicle in question is 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 petitioner is the General Power of Attorney holder of Sunil Kumar @ Sonu, who is the registered owner of 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 **Raghubir Singh @ Beera v. State of Punjab; 2006 (4) RCR (Crl.) 343**.

6. The superdari of the vehicle in question has been declined by learned trial Court on the ground under Section 60 (3) of the Act, the vehicle is liable to be confiscated in case the owner fails to establish that it was so used without his knowledge or connivance but Section 60 (3) would only

be attracted if the prosecution succeeds in establishing the guilt of the accused or the registered owner i.e. at the penultimate stage or conclusion of the trial. It cannot be made applicable during pendency of trial.

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 November 17, 2015 is set aside. Vehicle bearing registration No. HR-37-D-3169 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, Kurukshetra.

8. In view of order passed in the main petition, CRM No. 39151 of 2015 has become infructuous. As such, the same is dismissed as having been rendered infructuous.

JANUARY 07, 2016
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(JASPAL SINGH)
JUDGE