

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR NO - 4661 of 2015
Date of Decision: 03.06.2016

Satya Devi

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

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. R.S. Bajwa, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Challenge in the instant revision petition is to order dated 14.8.2015 passed by learned Special Judge Patiala, whereby the prayer of the petitioner for release of motorcycle bearing registration No.HR-09-B-0265, on superdari, has been declined.

Learned counsel for the petitioner while relying upon a judgment of this Court in **Criminal Revision No.381 of 2016 Manjit Singh v. State of Punjab** decided on 15.3.2016, contends that no useful purpose would be served to allow impounding of the vehicle in question and to be kept in police custody.

Learned State counsel submits that the motorcycle in question was used for transporting narcotics and in case the said vehicle is released on *superdari*, there is possibility that it can be used to supply intoxicants again.

Heard.

Hon'ble the Supreme Court in the case of **Sunderbhai Ambalal Desai v. State of Gujarat 2003(1) RCR (Criminal) 380**, has laid down certain guidelines for release of impounded 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 moved by the petitioner by having recourse to Section 52A of the NDPS Act. However, no doubt the question of confiscation of the vehicle will be considered at the time of conclusion of the trial, but at the same time it cannot be overlooked that when the vehicle is standing at the police station, its value is going to be depreciated day by day, if it is allowed to be detained there.

Accordingly, the present revision petition is allowed. The impugned order dated 14.8.2015 is set aside and the vehicle in question is ordered to be released to the petitioner, on *superdari*, on his furnishing indemnity bonds/surety bonds of the like amount or on the terms and conditions 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 used in the said offence, the petitioner would be debarred to approach the Court for *superdari* of the vehicle.

June 03, 2016
AK

(HARI PAL VERMA)
JUDGE