

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

**Criminal Revision No.381 of 2016 (O&M)
Date of Decision: 15.03.2016**

Manjit Singh

...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. Riffi Birla, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA J.(Oral)

Petitioner has filed the present revision petition against order dated 23.12.2015 passed by learned Special Judge, Fazilka, whereby his application for release of vehicle i.e. Tempo Traveller bearing registration No.PB-01-A-1495, Model 2012, Chasis No.019087, Engine No.6001598, on *supardari*, in FIR No.167 dated 11.9.2014 under Section 15 of the NDPS Act has been dismissed.

Learned counsel for the petitioner contends that no useful purpose would be served to allow impounding of the vehicle in question and keep it in police custody. He has relied upon a judgment of this Court in **Criminal Revision No.3686 of 2015 Tarsem Singh @ Sheru v. State of Punjab** decided on 7.1.2016.

Learned State counsel submits that in view of Section 52A of the NDPS Act, the conveyance is a part of inventory and therefore, the vehicle in question should not be ordered to be released, as 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 23.12.2015 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.

March 15, 2016
AK

(HARI PAL VERMA)
JUDGE