

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR No.809 of 2016 (O&M)

Date of decision: 17.03.2016

Mohd. Rasheed

.....Petitioner

versus

State of Punjab

.....Respondent

**CORAM: Hon'ble Mr.Justice Kuldip Singh**

Present: Mr.Rajbir Singh, Advocate for the petitioner  
Mr.Ashish Sanghi, DAG Punjab

- 1. Whether Reporters of Local Newspapers 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?*

**Kuldip Singh, J.**

Impugned in the present revision is the order dated 2.1.2016, passed by the learned Additional Sessions Judge-cum-Special Court, Jalandhar, vide which, application filed by the petitioner through her special power of attorney Rashida Begam for releasing vehicle Swift Dzire bearing registration number PB13AN-7119 on superdari has been dismissed.

Briefly stated, it is alleged that police arrested Mohd. Rasheed and Ajit Singh alias Jeeta and recovered 350 grams Heroin along with Rs.one lac Indian currency notes from Ajit Singh alias Jeeta and 700 grams Heroine along with Rs.3 lacs from the present petitioner Mohd. Rasheed while they were travelling in said Swift Dzire car. Accordingly, they were booked under Section 21 of the

Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'the NDPS Act') vide FIR No.62 dated 15.5.2015 registered under Section 21/61/85 of the NDPS Act at Police Station Bhogpur, District Jalandhar City. Rashida Begam being a special power of attorney of accused Mohd. Rasheed filed an application for releasing the said Swift Dzire bearing registration number PB13AN-7119 on superdari, which was declined on the ground that the local police has objection to the releasing of the vehicle on superdari and that application is moved by the wife of the accused and that the vehicle was owned by the accused.

I have heard learned counsel for the parties and have also carefully gone through the file.

Section 60(3) of the NDPS Act is reproduced as under:

*“ Any animal or conveyance used in carrying any narcotic drug or psychotropic substance 2 [or controlled substance], or any article liable to confiscation under sub-section(1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-incharge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.”*

A perusal of the Section shows that the car would be liable to be confiscated only when the prosecution is able to prove its case in court. It being so, merely on the presumption that the car would be liable to be confiscated if the offence is proved, the same cannot be kept in the police station for indefinite period. It is common

knowledge that there is no proper place in the police station for parking the vehicle. If the vehicle is kept idle, it is likely to be damaged. Therefore, pending the trial and till the prosecution proves its case, it is deemed proper that the vehicle should be released on sapurdari, subject to certain conditions.

The mere fact that the application is filed by special attorney is no ground to decline the same. Since the petitioner himself is inside the jail, therefore, his special power of attorney could seek the release of the vehicle.

Accordingly, the impugned order is set aside and the car of the present petitioner is ordered to be released on sapurdari on her furnishing sapurdginama in the sum of ₹6,00,000/- with one surety of the like amount to the satisfaction of the trial court, subject to the following conditions:

1. The car will be produced in the Court during evidence.
2. The petitioner will not change the appearance or colour of the car.
3. She will produce the car before the court, if ultimately the court finds that it is liable to be confiscated.
4. Car will not be sold during trial.

As such, the present revision petition stands allowed.

**17.03.2016**  
*gk*

**(Kuldip Singh)**  
**Judge**