

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl. Revision No.999 of 2016

Date of Decision:-29.07.2016

Darshan Lal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr A.S. Manaise, Advocate for the
petitioner.

Mr.Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA J.(Oral)

The petitioner, namely, Darshan Lal has filed the present revision petition against the order dated 11.02.2016 passed by learned Special Court, Pathankot vide which Tempo Traveller Vehicle No.PB-02-BM-9224 owned by the petitioner has been ordered to be confiscated under Sections 60(3) of NDPS Act.

Learned counsel for the petitioner contends that petitioner is running a travel agency in the name of RMB Travels in Amritsar and is the owner of the aforesaid vehicle. He provides his Tempo Traveller, on hire, to passengers for transportation and tourism purposes. It was on 16.07.2015 when the police party was present at Bridge No.4, Sujanpur for patrolling, one Sonu Sharma informed that accused Abid Hassan had hired the above said Tempo Traveller for carrying fire crackers from Amritsar to Jammu for a consideration of Rs.9,000/-. Said Sonu Sharma further informed that accused Abid Hassan is also carrying some intoxicating

material in a bag alongwith the crackers and the said vehicle is detained at Tax Barrier, Madhopur, as the accused could not produce the documents for carrying fire crackers. On this information as received from Sonu Sharma, the police party reached at the Tax Barrier, Madhopur, where accused Abid Hassan was found present with the Tempo Traveller. Upon searching the vehicle, the police party recovered one black coloured bag from the right hand of the accused and after opening the bag, it was found containing following articles.

- i. 8 bottles labeled a Leerex
- ii. 5 bottles labeled as Rancof
- iii. 270 capsules labeled as SPM-PRX Plus Wockhardt
- iv. 350 tablets labeled a Astra.

On the recovery of the above said contraband, the tempo traveller was taken into police custody and accused Abid Hassan was arrested and case FIR No.95 dated 16.07.2015 under Section 21 of the NDPS Act, Police Station, Sujanpur, Distt. Pathankot was registered.

Learned counsel for the petitioner contends that the petitioner had moved an application seeking release of the aforesaid vehicle on superdari being a registered owner, which was allowed by the learned trial Court vide order dated 29.07.2015 and the vehicle was released to the petitioner. He further submits that after trial, the said Abid Hassan was convicted for offence under Section 21(b) of NDPS Act and was sentenced to imprisonment for 06 months and 26 days i.e. the period during which Abid Hassan remained in custody vide order dated 11.02.2016. Apart from the conviction of the said Abid Hassan, the vehicle in question was also confiscated under Section 60(3) of the NDPS Act.

Learned counsel for the petitioner further submits that the petitioner being registered owner is entitled to get the vehicle released on superdari, but the learned Judge, Special Court, Pathankot has rejected the plea on the ground that the petitioner has failed to produce any evidence to prove his ownership over the vehicle as well as his innocence in the case.

On the other hand, learned counsel for the State submits that since the petitioner has neither appeared before the trial Court nor led any cogent evidence to prove his ownership over the vehicle in question, no illegality can be found in the impugned order dated 11.02.2016.

Heard.

Admittedly, the fact remains that accused Abid Hasan has already been convicted under the NDPS Act and the only question to be determined by the trial Court is as to whether the petitioner is owner of the vehicle in question or not. This question has not been decided by the trial Court, which may be decided only when the parties lead their respective evidence.

Accordingly, the petitioner is granted one more opportunity to establish his case before the trial Court about his ownership as well as his involvement in the case to get the vehicle released. Consequently, the order dated 11.02.2016 passed by learned Special Court, Pathankot, is set aside and the matter is remanded back to the trial Court for fresh decision in accordance with law.

(HARI PAL VERMA)
JUDGE

July 29, 2016
Anjal

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No