

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32817-2017

Date of decision: 02.11.2017

Inder Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rishab Lohan, Advocate for
Mr. R.N. Lohan, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing the orders dated 14.03.2017 and 24.07.2017, vide which the Courts below have refused to release the tractor bearing registration No.HR-21J-9554, registered in the name of the petitioner on superdari.

Brief facts of the case are that aforesaid tractor was taken in possession by the police during the investigation of FIR No.60 dated 03.03.2017 under Sections 147, 149, 302, 307, 506 IPC. The petitioner is the registered owner of the aforesaid tractor and as per the version given in the FIR, the accused namely Rohtash has used this tractor for committing the offence under Section 302 IPC as it was used for the murder of a lady. The petitioner, who is the registered owner of the tractor, moved an application before the trial Court for releasing the same on superdari,

however, the same was declined on 14.03.2017 with the observations that since the offences are triable by the Court of Sessions, the application, if any, should be moved before the Court of Sessions after the case is committed. The petitioner filed a revision petition before the Court of Sessions and the same was also dismissed vide impugned order dated 24.07.2017 by observing that since the tractor is a case property, same cannot be released on superdari till conclusion of the trial.

Counsel for the petitioner has submitted that the petitioner is an agriculturist and registered owner of the tractor, which is required for his day to day agricultural work. The tractor in question is in the possession of the police since 06.03.2017 and with the passage of time, it will become unusable as it is lying in the malkhana of the police without any use. It is further submitted that by not keeping the tractor in a usable condition, its value will be depreciated and with the passage of time, it will be reduced into a junk. Counsel for the petitioner has further submitted that he is ready to undertake before the trial Court that he will produce the tractor in question during the trial as and when required and will not dispose of the same till conclusion of the trial. It is further submitted that the petitioner is not the accused in the main FIR and he is the only registered owner and therefore, there is no possibility that petitioner will misuse the tractor or try to destroy any evidence.

Counsel for the petitioner has further submitted that when a property is produced before the criminal Court during an inquiry or trial, the Court is competent to release such property on superdari. Counsel for the petitioner relied upon **Raghubir Singh @ Beera Vs. State of Punjab, 2006**

(4) RCR (Criminal) 343, wherein this Court has released the car on superdari, considering the fact that no useful purpose will be served if the vehicle in question is allowed to remain in the police station, it will ultimately result into its damage. Similar view has been taken by this Court in **Nirmal Singh Vs. State of Punjab, 2007 (1) RCR (Criminal) 986** and **Balbir Singh @ Fauji Vs. State of Punjab, 2010 (1) RCR (Criminal) 908**.

After hearing counsel for the parties, I find merit in the present petition. Since the petitioner is the registered owner of the tractor and petitioner is not an accused in the FIR, there is no possibility that the petitioner will misuse the case property or try to destroy any evidence. The petitioner being an agriculturist has a need-based requirement for using the tractor in dispute for the purpose of performing his agricultural work and since the tractor is in possession of the police for the last about 09 months, which is lying unused, there is a possibility that it may reduce to junk on account of its non-user.

Accordingly, the impugned orders dated 14.03.2017 and 24.07.2017 are hereby set aside. Trial Court/Additional Sessions Judge is directed to release the tractor on superdari subject to such terms and conditions, it may deem appropriate.

Petition is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

02.11.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No