

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

**CRM-M-3881-2017 (O&M)
Date of Decision: May 31, 2017**

Kulwinder Singh

.....PETITIONER(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Tanuj Sharma, Asstt.A.G., Haryana.

SURINDER GUPTA, J.(Oral)

Heard.

Learned Sub Divisional Magistrate, Jagadhri vide order dated 29.8.2016 directed confiscation of the vehicle, i.e., Mahindra Balero Pick-Up Van bearing registration No.PB10-ES-0885 with the observation as follows : -

“Owner of the vehicle has been heard. Owner of the vehicle made a statement that he has neither committed any smuggling by his vehicle nor has committed any offence relating to it. He has been falsely implicated. Therefore, his vehicle may be released. Calendara produced by the police has been perused and after hearing owner of the vehicle, I, exercising powers under Section 17 of the Haryana Cows Protection and Cow Slaughtering Act, 2015, confiscate the said vehicle till final decision of the case and the vehicle is handed over to the Station House Officer of the concerned police station.”

Section 17 of Haryana Gauvansh Sarankshan and Gausamvardhan Act, 2015 authorizes the competent authority to confiscate the vehicle after being satisfied that such vehicle was used for commission of offence under this Act. No such satisfaction has been recorded in his order dated 29.8.2016 by SDM, Jagadhri.

FIR was registered in this case on the complaint by one Ajay Kumar Rajpal who had received some information that some persons were carrying 3 American cows in a Balero Pick-up for slaughtering. They apprehended Balero Pick-up and handed over it to the police.

After investigation, challan has been presented. The matter is still pending before the trial court. Learned SDM, Jagadhri has not exercised the power vested in him as per provisions of Section 17(2) of the aforesaid Act and there was no reason for him to confiscate the vehicle at this stage.

The petition is allowed and the vehicle is ordered to be released on *sapurdari* to the petitioner subject to his furnishing proof of ownership over the vehicle and complying with other formalities before the trial court. He will move an application to this effect before the learned trial court and the learned trial court after obtaining report of the police regarding ownership of the vehicle, will pass appropriate order.

(SURINDER GUPTA)
JUDGE

May 31, 2017
Paritosh Kumar

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No