

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1493 of 2017

.....

Date of decision:5.12.2017

Ali Hasan

...Petitioner

v.

State of Haryana

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Brijesh Sharma, Assistant Advocate General, Haryana
for the respondent-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned order dated 30.3.2017 passed by learned Additional Sessions Judge, Kurukshetra, whereby the second application filed for release of vehicle on superdari has been dismissed.

Notice of motion was issued in this case.

Mr. Brijesh Sharma, learned Assistant Advocate General, Haryana has put in appearance on behalf of the respondent-State and contested this revision petition.

I have heard learned counsel for the petitioner and learned State counsel and have gone through the record.

A perusal of the record shows that vide order dated 30.3.2017, the learned Additional Sessions Judge, Kurukshetra has dismissed the application filed by the petitioner for release of vehicle on superdari. The main ground for dismissal of the application is that the witnesses are yet to be examined and since the applicant is neither a witness nor an accused in the present case and he would not bring the vehicle on each and every date of hearing during the recording of the evidence of the witnesses.

From the perusal of the impugned order, I find that the order is not as per law. The vehicle i.e. Mahindra Bolero Pick-up bearing registration No.HR-58B-5666 had been taken into Police possession in FIR No.428 dated 19.5.2016 registered for the offences under Sections 307, 285 and 120-B IPC; Section 25 of the Arms Act; Section 13(2) of HSG & GS Act, 2015 and Section 11 of PCA Act at Police Station Thanesar. If the vehicle is already with the Police for the last more than one year and it is not released on superdari, it will be damaged further. If the vehicle is given on superdari, it will be the duty of the superdar to produce the vehicle in the Court whenever it is required by the Court. If he will not produce the same, the superdari and surety bonds can be cancelled and the vehicle can be taken into possession. But by simply presuming that the superdar being neither a witness nor an accused in the case will not produce the vehicle is no ground to reject the application.

Therefore, finding merit in this petition, the same is allowed and the impugned order dated 30.3.2017 passed by the learned Additional Sessions Judge, Kurukshetra is set aside. The trial Court is directed to

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release the vehicle on superdari after verification of the ownership of the vehicle and subject to furnishing superdari and surety bonds to its satisfaction.

December 5, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No