

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 2271 of 2017 (O&M)

Date of Decision : 25.07.2017

Bikramjit Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Surinder Gupta, J.

Heard.

As per case of prosecution, truck bearing registration no. PB-23-T-6638 was apprehended by the police party of Police Station Mandi Gobindgarh. Two persons, who were travelling in the truck succeeded in running away from the spot while two persons were apprehended from the spot and recovery of 104 kgs. of poppy-husk was effected from the truck.

The petitioner in his capacity as attorney of Gurpreet Singh, owner of the truck, applied for taking the truck on *superdari* but his application was declined. Learned counsel for the petitioner while relying on the observation of this Court in case of **Gurbinder Singh @ Shinder vs. State of Punjab, 2016 (4) RCR (Criminal) 492** submits that till conclusion of trial and passing of specific order to confiscate the truck, release of the same on *superdari* cannot be denied.

Learned State counsel submits that truck in question, which is owned by Gurpreet Singh, brother-in-law of petitioner, was being used to carry the contraband. Father of the petitioner, namely, Kabal Singh is

involved in 22 cases registered against him for various offences under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985. The truck, if released, will again be used by petitioner and his family to carry the contraband.

So far as this apprehension of learned State counsel that truck in question, if released on *superdari* will be used to carry the contraband, is concerned, the same has no basis or cannot be accepted merely on presumption or by drawing some conclusion because of the fact that father of petitioner is involved in 22 cases registered against him under the provisions of NDPS Act.

In para 21 of the judgment in case of **Gurbinder Singh @ Shinder (supra)**, a Division Bench of this Court has observed as follows:-

“21. In the above facts and circumstances, we have no hesitation to hold that there is no provision under the NDPS Act debarring the release of the vehicle for interim custody. The provision under Section 451 Cr.P.C. which is found not inconsistent with the provisions of the NDPS Act is applicable to the vehicle seized under the NDPS Act as well. No differential treatment to the vehicle seized under the NDPS Act is contemplated either under the provisions of the NDPS Act or under the ratio laid down by the Court of law. In our considered view, the law laid down by the Hon'ble Supreme Court in Sunderbhai Ambalal Desai's case (supra) will apply to the vehicles seized under the NDPS Act as well. Any contrary view taken by the Courts of

law would be against the interest of the owner of the vehicles, the public at large and the State.”

Keeping in view the law settled by Division Bench in case of ***Gurbinder Singh @ Shinder (supra)***, I find no reason to decline release of truck in question on *superdari* to petitioner. Trial of the case is still pending and no specific order by the trial Court has been passed to confiscate the truck in question.

Keeping in view above facts, the instant petition is allowed and order dated 16.06.2017 passed by the trial Court is set aside and truck in question is ordered to be released on *superdari* subject to terms, which shall be laid down by the trial Court while accepting *superdari* bond. The petitioner on his behalf and for owner of truck will also give an undertaking that truck will not be used to carry contrabands or for any other purpose not permitted under the law.

July 25, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No