

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

CRM-M-24988-2017 (O&M)

Date of Decision:- 28.09.2018

Avtar Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gagan Oberoi, Advocate
for the petitioner.

Mr. A.S. Sandhu, Addl. A.G., Punjab.

GURVINDER SINGH GILL, J. (Oral)

The petitioner assails order dated 26.04.2017 passed by the learned Special Court, SAS Nagar, Mohali in confiscation proceedings pertaining to confiscation of vehicle involved in FIR No.204 dated 30.07.2014 under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Dera Bassi.

A few facts necessary to notice for disposal of this petition are that petitioner-Avtar Singh was booked in the aforesaid FIR on the allegations that he was found in possession of contraband. The petitioner was tried by the learned Special Court, SAS Nagar, Mohali and was held

guilty vide judgment dated 31.08.2016. The said judgment of conviction has however been challenged by the petitioner by way of filing appeal in this Court, which is stated to be still pending. It may here be mentioned that during the pendency of the trial, the vehicle in question was released on '*Superdari*' to the petitioner-Avtar Singh vide order dated 27.02.2016 passed by this Court. However, pursuant to conviction of the petitioner by the learned Special Court, SAS Nagar, Mohali, a notice of confiscation of Innova Car bearing registration No.CH01-AS-8304 used in the commission of the offence was served upon the petitioner in accordance with provisions of Section 60(3) of Narcotic Drugs and Psychotropic Substances Act, 1985.

The petitioner had moved an application CRM-34021-2016 in CRA-D-920-DB-2016 praying therein to restrain the trial Court for conducting the confiscation proceedings. However the said application was dismissed vide order dated 12.01.2017. The order passed by a Division Bench reads as follows:-

“In terms of Section 63 of the Narcotic Drugs & Psychotropic Substances Act, 1985, the proceedings for confiscation of the vehicle are independent proceedings and have to be determined accordingly, pursuant to which, the applicant/appellant would have sufficient remedies in law in the event of its dismissal.

We, thus, do not find any ground to restrain the trial Court to pass any order. Accordingly, the instant application stands dismissed.”

Thereafter when the confiscation proceedings were taken up by the learned Special Court, SAS Nagar, Mohali, it was specifically recorded therein that the convict had suffered a statement that he does not wish to lead

evidence with regard to confiscation proceedings. Consequently, the learned Special Court, SAS Nagar, Mohali proceeded to pass order dated 26.04.2017 for confiscating the vehicle in question in terms of provisions of Section 60(3) of Narcotic Drugs and Psychotropic Substances Act, 1985.

In view of the above referred position where the petitioner himself had made a statement that he does not wish to lead any evidence with regard to confiscation proceedings, this Court does not find any ground to interfere with the impugned order dated 26.04.2017 passed by the learned Special Court, SAS Nagar, Mohali and the same is upheld. There is no merit in this petition and the same is hereby dismissed.

(GURVINDER SINGH GILL)
JUDGE

28.09.2018
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No