

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRM-M-27409 -2017

Date of decision: August 6, 2018

A R Steel Industries

... Petitioner

versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sanjiv Gupta, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG., Punjab

Mr. D. D. Sharma, Standing counsel for Narcotic Control
Bureau.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C is to quash the order dated 19.7.2017 (Annexure P-7) passed by the Judge, Special Court, Patiala whereby the application filed by the petitioner for release of Pig Iron Material weighing 20 M.T. belonging to A.R.Steel Industries, 114, Focal Point, Batala and loaded in truck No. PB-32-L-9513 was declined to be released on superdari. The trial court has declined the release on the ground that quantity of 9.770 kg.opium was recovered underneath Pig Iron Material loaded in the truck bearing registration No. PB-32-L-9513 at Shambhu barrier import, Mehmampur Patiala.

Counsel for the petitioner has argued that though the petitioner has not been named as an accused in the case, but the aforesaid material i.e. Pig Iron Material belonging to the petitioner-firm, is not being

released solely on the ground that the truck in which the stock of the petitioner was loaded, opium weighing to 09.770 kg.was recovered which is commercial in nature. The goods are not being released in the light of Section 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 wherein it is defined that goods used for concealing illicit drugs or substances are liable to be confiscated. The trial Court has declined the release of goods solely on the ground that in case the stock is released it shall be further consumed in production of finished goods by the petitioner and then it would be difficult to confiscate the same.

Learned counsel for the petitioner has argued that the petitioner is an Iron industry and has hired Guru Nanak Pvt. Transport Company for transportation of goods from Jharkhand for onward delivery to the petitioner at Batala. He refers to the bills of stock so purchased from M/s Shankar Ferro Alloys Pvt. Ltd. Nuagaon (Satkania) through the Invoice-cum-bill dated 23.5.2017. He has further submitted that opium which has allegedly been recovered from the truck in which the petitioner has loaded his material, petitioner has nothing to do with the contraband i.e. opium. He has just hired the services of the Guru Nanak Transport Company for the purpose of carrying the stock from Jharkhand to Batala.

He has further submitted that the petitioner hired the services of Guru Nanak Transport and accordingly consignment note was issued to the petitioner dated 23.10.2017 (Annexure P-4). In case the aforesaid stock is not released, the business of petitioner who is surviving on Pig Iron Material will be adversely affected. However, the petitioner is ready to give solvent surety of the value of goods. Otherwise, Pig Iron Material had nothing to do with the recovered contraband i.e. opium.

Mr. D. D. Sharma, Standing counsel for Narcotics Control Bureau has put in appearance on behalf of the respondents. He does not dispute that the Pig Iron Material is used by the furnace industries but in case this stock is released to the petitioner it would be consumed for further production of finished goods and thereafter it would not be possible to confiscate the same at a later stage if required.

I have heard learned counsel for the parties.

It is the conceded position of the parties that the petitioner has not been named as an accused through out the proceedings. The investigation in the case is complete. Once there is no allegation against the petitioner that he is involved in the case and merely because he had hired services of a transporter so as to facilitate the delivery of stock from Jharkhand to Batala, it should not result in non-release of the goods on superdari which would adversely affect his business. Therefore, the petitioner is held entitled to get the release of stock so confiscated on superdari. However, he shall furnish adequate solvent surety while getting released the stock of Pig Iron Material on superdari in accordance with law.

The Criminal Miscellaneous Petition stands disposed of.

(HARI PAL VERMA)
JUDGE

August 6, 2018
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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No