

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

CRM-M-37712 of 2018.
Decided on:-October 22, 2018.

Sunil Kumar.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. S. S. Mor, Advocate
for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, Haryana.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of the order dated 06.08.2018 passed by learned Additional Sessions Judge, Hisar, whereby the application filed by the petitioner for releasing the vehicle i.e. car make *i-20* bearing temporary registration No.HR99ACK(T) 6139, chassis No.MALBM51RLHM462483*K and engine No.D4FCHM 448610 (for short, the car) on Superdari, was dismissed.

The petitioner is facing trial in FIR No.525 dated 21.12.2017 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) registered at Police Station Barwala, District Hisar. As per the FIR, the police party had intercepted the car which was being driven by the petitioner having 75 Kgs. of poppy husk in the car. The

Challan in the case has been presented though the FSL report is yet to be received. During the pending proceedings, the petitioner moved an application for release of the car on Superdari, but the same was dismissed by the trial Court vide impugned order dated 06.08.2018 while having recourse to the provisions of Sections 60 and 61 of the NDPS Act.

Learned counsel for the petitioner has argued that in the aforesaid FIR, three accused have been implicated, who are facing trial and all the three accused including the petitioner have already been granted the concession of regular bail. The car from which the alleged contraband was recovered, is lying with the police and since the car is parked in open space, its value is deteriorating day by day. The car was purchased only in November, 2017 and the FIR was registered on 21.12.2017 and since then, it is lying with the police. The petitioner, therefore, seeks release of the car on Superdari, however, with an undertaking that the car shall not be put to use for any act, which is prohibited by law. The petitioner further undertakes that after taking the car on Superdari, he will get the same registered with the concerned Registering and Licensing Authority.

In support of his contentions, learned counsel for the petitioner has referred to the law laid down by this Court in ***Harpreet Singh Versus State of Punjab 2006(4) RCR (Criminal) 719*** and another judgment of this Court passed in ***Criminal Appeal No.S-3347-SB of 2017*** titled as ***Hunny (Honey) Versus The State of Haryana*** decided on 26.10.2017.

On the other hand, learned State counsel, on instructions from HC Phalel Singh, does not dispute the fact that the car was taken into custody

as contraband was recovered from the same. He further contends that in view of Sections 60 and 61 of the NDPS Act, the car cannot be released on Superdari and in case it is released on Superdari, there is a possibility that it can be put to illegal use again by the petitioner.

I have heard learned counsel for the parties.

This Court in ***Hunny's case (supra)*** dealt similar controversy and has ordered for release of the vehicle on Superdari obviously for the reason that in case the vehicle is allowed to be parked in an open place in the premises of police station, it will certainly affect its utility and after a particular period, it will become useless, as it will turn into junk. In that case, reliance was also placed upon the order dated 15.03.2016 passed by this Court in ***CRR No.381 of 2016*** titled as ***Manjit Singh Versus State of Punjab***, wherein the vehicle was ordered to be released on Superdari subject to certain conditions.

Accordingly, the impugned order dated 06.08.2018 passed by learned Additional Sessions Judge, Hisar is set aside and the car is ordered to be released to the petitioner on Superdari on his furnishing personal bond in the sum of Rs.8 lakh with one surety in the like amount before the trial Court with an undertaking that as and when the vehicle is required by the trial Court, the petitioner shall produce the same in the same condition at his own cost before the concerned Court. He shall also furnish an undertaking to the effect that in future, he will not allow the car to be used for any illegal purpose.

The original colour of the car will not been changed without there being a permission from the Court. After taking the car on Superdari, the petitioner shall get the vehicle registered with the concerned Registering and Licensing Authority within a period of one month from the date of release of the car and shall deposit the original registration certificate of the car before the trial Court.

The petition is, accordingly, disposed of.

October 22, 2018

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No