

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-618-2018 (O&M)
Date of decision: 18.01.2018

Udmi Ram

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.P. Sidhu, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Challenge in this petition is to the order dated 06.12.2017 passed by the trial Court dismissing the application for releasing the commercial goods vehicle bearing registration No.HR-47B-9295 and the order dated 19.12.2017 passed by the revisional Court, vide which the revision petition filed by the petitioner was dismissed.

Brief facts of the case are that on 01.12.2017, the above-mentioned vehicle was apprehended by the police with the allegations that the same was driven in a rash and negligent manner on account of overloading, which led to damage of the public property and in this regard, an FIR No.290 dated 01.12.2017 under Sections 279, 336, 283 read with Section 120-B of the Indian Penal Code (for short 'IPC') and Section 3 (2) of Prevention of Damage to Public Property Act, 1984, Police Station Bawal was registered against the petitioner being driver of the vehicle. During pendency of the investigation, the

petitioner in the capacity of Special Power of Attorney of the registered owner namely Bijender Singh moved an application for releasing the vehicle on superdari.

The trial Court, vide impugned order dated 06.12.2017 (Annexure P-4), on receiving the report of SHO, who has given no objection for releasing the vehicle on superdari in favour of the petitioner, dismissed the application on the ground that since the petitioner-accused is driver of the vehicle, the same cannot be released in his favour on the basis of Special Power of Attorney.

The petitioner filed a revision petition, challenging the abovesaid order dated 06.12.2017, however, the revisional Court vide its impugned order dated 19.12.2017 (Annexure P-5) dismissed the revision petition.

Counsel for the petitioner has drawn attention of the Court towards the findings recorded by the revisional Court that while passing the said order, the revisional Court has made certain observations that while deleting Section 120B IPC thereby in not adding the registered owner of the vehicle as accused, the police has not acted in a proper manner. However, in my opinion, this observation was not required to be made by revisional Court for the purpose of deciding a revision petition for releasing a vehicle on superdari.

Counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat, 2003 (1) RCR (Crl.) 380**, wherein the Hon'ble Supreme Court has held that the Court, considering the nature of the property, should pass appropriate order of releasing a vehicle by taking appropriate bonds and guarantees as well as security for return of a vehicle. Counsel for the petitioner submits that the vehicle in question is loaded with stones and lying parked in the premises of the police station and on account of it being a loaded vehicle, it will damage the

same substantially, if the vehicle is not released on superdari immediately.

Learned State counsel, on instructions from ASI Mukhtiar Singh, has not disputed the factual position.

Since SHO has given no objection with regard to release of vehicle in favour of the petitioner, who is Special Power of Attorney, the impugned orders passed by the Courts below are hereby set aside and the matter is remanded back to the trial Court for deciding the application afresh within a period of 07 days from receiving certified copy of this order. The petitioner has undertaken to furnish a no objection from the registered owner Bijender Singh to the effect that the vehicle may be released in favour of his Special Power of Attorney i.e. the petitioner. The trial Court may in this regard obtain surety bond of the registered owner as well.

With the abovesaid observations and directions, present petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

18.01.2018

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No