

CrI. Revision No. 1028 of 2018 (O&M)
Date of Decision: August 27, 2018

Balvir Singh @ Bira

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. L.S. Sekhon, Advocate for the petitioner

Mr. J.S. Walia, Sr. DAG Punjab

Sudhir Mittal, J. (Oral)

The petitioner was apprehended with 6 Kgs of Poppy Husk. Apart from contraband motorcycle Hero Splendor Plus bearing registration No. PB-13-AY-3243 was taken into custody. He moved an application for release of the motorcycle on sapurdari and the same has been rejected vide order dated 04.01.2018. Hence, the present revision petition.

Learned counsel for the petitioners submits that Section 60 of the NDPS Act, 1985 does not bar release of vehicle allegedly used for transportation of narcotics during the pendency of the trial. He relies upon Division Bench judgment of this Court passed in ***Gurbinder Singh @ Shinder vs. State of Punjab, 2016(4) RCR(Criminal) 492.***

Learned State counsel submits that another FIR under the NDPS Act has been registered against the petitioner and, thus, it is quite likely that in case the motorcycle is released on sapurdari, the same may be used for transportation of narcotics.

The Division Bench of this Court in case of ***Gurbinder Singh @***

Shinder (supra) has held 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.*

22. In the above facts and circumstances, we hold that the vehicle used for transporting the narcotic drugs and psychotropic substances can also be released on sapurdari invoking the provision under Section 451 Cr.P.C. The reference is answered accordingly.”

In view of the above, the petition is allowed and the trial Court is directed to release the motorcycle in favour of the petitioner on sapurdari on fulfilling the necessary formalities to the satisfaction of the trial Court/Additional Sessions Judge concerned, Mansa. The petitioner shall be bound to produce the motorcycle as and when required by the trial Court.

August 27, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No