

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

242

CRR-1373-2018

Date of Decision: August 28, 2018

Dalwinder Singh @ Bitu

.....Petitioner(s)

versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Jasvir Singh Dhaliwal, Advocate for the petitioner.

Mr. Jasdeep Singh Walia, Sr. DAG, Punjab.

Sudhir Mittal, J. (Oral)

This revision petition has been filed by Dalwinder Singh @ Bitu against the order dated 20.03.2018 passed by Judge, Special Court, Mansa, whereby the application filed by Jaswinder Singh son of Sucha Singh in case FIR No.95 dated 22.09.2017 under sections 21/25 of the NDPS Act, 1985, registered at Police Station Boha, Mansa District Mansa, for release of *Eon* Car bearing No.**PB-31-P-1193** on *Sapurdari*, has been dismissed.

2. The petitioner while travelling in the said *Eon* car was intercepted by the Police. Recovery of 60 grams of *Heroine* was effected from him and the above said car was also taken into custody by the Police. The petitioner alleges himself to be the registered owner of the car in question. Trial against the petitioner is pending in the Court of Judge, Special Court/Additional Sessions Judge, Mansa.

3. Learned counsel for the petitioner 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.***

4. 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.

5. 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.”

6. In view of the above, the petition is allowed; impugned order is set aside and the vehicle i.e. *Eon* Car bearing No.**PB-31-P-1193** is directed to be released on *Sapurdari* in favour of its registered owner, on fulfilling the necessary formalities, to the satisfaction of the trial Court/Additional Sessions Judge concerned at Mansa. The petitioner shall be bound to produce the said car as and when required by the trial Court.

August 28, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No