

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

243

CRR-430-2018

Date of decision: 20.03.2018

Sumanpreet Singh

...PETITIONER

VS.

State of Punjab

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Bikramjeet Singh Jatana, Advocate,
for the petitioner.

Mr. Dhruv Dayal, Sr. Deputy Advocate General, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this petition is to the order dated 17.11.2017 passed by the Special Judge, Mansa, whereby the application moved by the applicant-petitioner for release of Car Rexton bearing Chassis No. MA1PB4PBBE6C42923, Engine No. 66593522533918 on superdari has been dismissed on the ground that the vehicle is liable to be confiscated as per Section 60 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (hereinafter referred to as 'NDPS Act').

Learned counsel for the petitioner contends that as per Section 60 of the NDPS Act, a decision with regard to the confiscation of the vehicle is to be taken at the time of final decision of the trial. His contention is that as per the allegations in the FIR, the petitioner was

arrested from the spot along with the vehicle, from where certain narcotic substance was recovered. However, during investigation, the petitioner has been found innocent and has been kept in Column No. 2 of the challan. His further submission is that merely because some recovery has been effected from the vehicle, as per the allegations, where the petitioner was also sitting in the car although driven by some other person, he being the owner of the vehicle but has been found to be innocent by the Investigating Agency, it cannot be said that the vehicle was so involved in the commission of the offence. In any case, he submits that there is no bar under the NDPS Act for release of the vehicle. The provisions of the Code of Criminal Procedure are applicable, according to which, the vehicle can be released on superdari. Prayer has, thus, been made for setting aside the order dated 17.11.2017.

Learned counsel for the State, on the other hand, contends that in the light of the provisions of Section 60 of the NDPS Act, the vehicle is not likely to be released on superdari especially in the light of the fact that the said vehicle is liable to be confiscated but that has to be determined by the Court on the conclusion of the trial. He, however, could not dispute the fact that the petitioner is the owner of the vehicle and was arrested on the spot along with the vehicle and the other three accused when the recovery of the narcotic substance was effected.

I have heard the counsel for the parties and have gone through the records of the case and find the submissions of the counsel to be justified.

The petitioner having been found innocent, the decision on confiscation of the vehicle is to be taken as per Section 63 of the NDPS Act at the time of final decision and keeping in view the fact that in case, the

vehicle is kept unused it is likely to be damaged, the present petition deserves to be allowed. Order dated 17.11.2017 passed by the Special Judge, Mansa is hereby set aside.

The application of the applicant-petitioner for release of the vehicle on superdari is accepted and it is ordered that the same be released on superdari to the petitioner.

It will be open to the Court to impose stringent and strict conditions with regard to the vehicle in question while releasing the same on superdari.

March 20, 2018
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable	: Yes/No