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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 02.08.2018

+ CRL.M.C.2360/2018

ASHOK KUMAR KAPOOR

..... Petitioner

versus

STATE OF GNCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Rajesh Kumar with Mr. Avinash Kumar,
Advocates

For the Respondent: Ms. Neelam Sharma, Addl. PP for the State with SI
Anand Prakash, PS Tilak Nagar

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

02.08.2018

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner impugns order dated 01.03.2018 whereby the application of the petitioner seeking release of the vehicle on superdari was rejected.

2. Subject FIR No. 581/2017, Police Station Tilak Nagar has been registered under Sections 21/61/85 of Narcotics Drugs and Psychotropic Substances Act. Contentions in the FIR are that a raid was conducted by a raiding party. On secret information, a Maruti Swift Dzire was intercepted on pointing out of the secret informer.

The accused was intercepted. As per the FIR 10 gms. of Cocaine was recovered from his pocket. Since the accused was travelling in the subject vehicle bearing registration No.DL-8C-AD-4267 Maruti Swift Dzire. The said vehicle has been seized.

3. Investigation is complete and charge sheet has already been filed.

4. Learned counsel for the petitioner had filed the subject application contending that he is the owner of the vehicle and had loaned the vehicle to his son's friend who borrowed the same to see his relative in the hospital.

5. Learned counsel for the petitioner has relied upon judgment of this court in *Madan Lal vs. State (National Capital Territory of Delhi)* 2002 (96) DLT 803 wherein, in similar circumstances this court after examining the provisions of Section 60(3) and 63 of the NDPS Act held that in appropriate cases order for release of conveyance used for carrying contraband, pending conclusion of trial, could be made under Section 451 of the Code. Reliance was placed on decision in *B.S. Rawant vs. Shaikh Abdul Karim and another*, 1989 CRL. L.J. 1998 and *Smt. Narender Kaur vs. Arun Sheoran, Intelligence Officer Narcotics Control Bureau* 87 (2000) DLT 155.

6. By the impugned order, the application was rejected permitting the petitioner to approach again after the charges are framed.

7. Learned counsel for the petitioner undertakes on behalf of the petitioner that the vehicle shall be produced on the day when the matter is fixed for framing of charge as also as and when required by the Trial Court.

8. The trial is yet to commence. No purpose would be served in keeping the vehicle in the police station. Keeping the vehicle in the Police station and exposed to all elements is going to deteriorate the condition of the vehicle, which would not benefit any one.

9. Keeping in view the above facts, the impugned order is accordingly set aside. The petition is allowed. Accordingly, the vehicle bearing registration No.DL-8C-AD-4267 Maruti Swift Dzire is directed to be released to the petitioner on *superdari* on his furnishing a bond of Rs.4 lacs to the satisfaction of the Trial Court and giving an undertaking that the vehicle shall not be alienated and shall be made available as and when required by the Court.

10. Petition is disposed of in the above terms.

11. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

AUGUST 02, 2018/ns