

Date of decision: March 28, 2019

....Petitioner

State of Punjab

....Respondent

Present: Mr. J.K. Singla, Advocate
for the Petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer made in this petition is for setting aside the order dated 10.1.2019 vide which the Judge, Special Court, Mansa has dismissed the application filed by the petitioner for quashing of the FIR No.41 dated 20.6.2018 under Sections 353/427/279/34 IPC and under Sections 21/61/85 of the NDPS Act, 1985 registered at Police Station Sadar, Budhlada, District Mansa.

Brief facts of the case are that aforesaid FIR was registered against one Rishi Garg son of the present petitioner and Vinod Kumar @ Kali with the allegations that while the police party was present in the area of Police Station Sadar, Budhlada, on search of the vehicle non-commercial quantity, i.e. one strip of Carisoprodol Tablet and one vial of Onerex 100 ml. was recovered and accused persons were arrested and even the car was taken into possession by the police.

The petitioner moved an application before the trial Court for releasing the same on Superdari on the basis of an affidavit given by the original owner Raghubir Singh that he has sold this car to the present petitioner-Mangat Rai, the trial Court dismissed the application vide impugned order dated 10.1.2019 holding that the petitioner is not the registered owner of the same.

Counsel for the petitioner has submitted that the car in question is in possession of the police and with the passage of time, it will outlive its utility if it remained parked in the premises of the Police Station due to non-use of the same. Learned counsel for the petitioner further submits that the petitioner will make an appropriate application through its original owner Raghubir Singh for releasing of the car.

Learned Stated counsel has no serious objection to the same if the car is released in the name of the original owner.

After hearing learned counsel for the parties, I find merit in the present petition.

In Raghubir Singh @ Beera Vs. State of Punjab, 2006 (4) RCR (Criminal) 343, this Court has released the car on superdari, considering the fact that no useful purpose will be served if the vehicle in question is allowed to remain in the police station, as it will ultimately result into a junk. Similar view has been taken by this Court in **Nirmal Singh Vs.State of Punjab, 2007 (1) RCR (Criminal) 986.**

In view of the judgment in **Balbir Singh @ Fauji Vs. State of Punjab, 2010(1) RCR (Criminal) 908**, wherein it has been held by this Court that even in the case under the NDPS Act, if a vehicle is confiscated by the police and is kept unused for a long time, the same can be released on superdari in favour of the registered owner subject to the condition that he will furnish the surety bond before the trial Court and also an affidavit that he will not dispose of the case property till decision of the trial and produce the same as and when required by the trial Court, present revision petition is allowed in the same terms, the order dated 10.1.2019 passed by the trial Court is set aside.

In view of the same, this petition is allowed and the petitioner is granted permission to move an application through its original owner before the trial Court for releasing of the car in his name and the trial Court will release the aforementioned vehicle on superdari, subject to the terms and conditions as it may deem fit and also after obtaining an affidavit/bond from the petitioner that he will produce the same as and when required by the trial Court and in case on any substantive date, when some evidence is being recorded and the vehicle is not produced before the trial Court, he will not dispute the identity of the same.

(**ARVIND SINGH SANGWAN**)
JUDGE

March 28, 2019
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Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No