

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

201

**CRM-M No. 15140 of 2014
Date of Decision: 7.2.2019**

Darshan Pal

.....Petitioner

v.

State of Punjab

.....Respondent

CORAM HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Jasbir Singh Dhaliwal, Advocate, for the petitioner

Mr. Harpreet Multani, AAG, Punjab

RAMENDRA JAIN, J.

Through this petition filed under Section 482 Cr.P.C. prayer has been made for quashing the order dated 17.2.2014 passed by Additional Sessions Judge, Sangrur, confiscating truck bearing registration No. PNB 5926 belonging to the petitioner, which was released on supurdari on 11.4.2000. Further prayer is made to quash order dated 18.12.2000 passed by Judge, Special Court, Sangrur convicting and sentencing two accused under the NDPS Act and ordering for initiation of separate proceedings regarding confiscation of the above said vehicle, involved in that case.

Briefly stated, on 12.6.1999 in the area of Village Dasund Singh Wala, near Bapla Chowk, a truck without registration number was apprehended being driven by Hakam Singh accompanied by Ajaib Singh, carrying 9 bags of poppy husk weighing 34.500 kgs. each (total 315 Kg.), without any permit or licence. The said truck was taken into custody and the aforesaid persons/accused were also arrested, who after trial, were convicted vide

judgment dated 18.12.2000. During trial, the petitioner moved an application for release of the aforesaid truck on supurdari disclosing its number as PNB-5926, claiming himself to be its owner.

Consequently, report from the SHO concerned was called and finally, the trial Court released the said truck on supurdari to the petitioner.

After conclusion of trial and sentencing said Hakam Singh and Ajaib Singh vide judgment dated 18.12.2000, learned trial Court ordered for initiation of separate proceedings qua confiscation of the above said truck in terms of Section 60 of the NDPS Act.

Resultantly, the petitioner filed objections challenging the order dated 18.12.2000 before the trial Court, by which he was granted sufficient time to challenge the same before this Court. However, the petitioner did not ever challenge the said order of initiation of proceedings before this Court or anywhere else, despite elapsing about 4 years. Therefore, the trial Court, vide order dated 17.2.2014, ordered for confiscation of offending truck, released to the petitioner on supurdari.

Learned counsel for the petitioner contends that the trial Court while passing the impugned order, did not comply with the mandatory provisions laid down in Section 63 of the NDPS Act qua issuance of notice to the owner of the offending truck. The impugned order is passed erroneously under a wrong impression that entire procedure laid down in the Act has been followed. In support of his contention, he placed reliance on decision rendered in **“Santa Singh v. The State of Punjab, 2005 (1) All India Crl. Law Reporter 675 (P & H)”**.

On the other hand, learned State counsel, while vehemently opposing the above submissions, contends that the offending truck was without

number plate and registration certificate, while carrying the contraband, which was got released by the petitioner on supurdari by disclosing its registration number. Therefore, identity of the offending truck is not in dispute.

Having given thoughtful consideration to the rival submissions, the impugned orders are set aside. The trial Court is directed to proceed further with the confiscation proceedings affording an opportunity to the petitioner as to how the offending truck should not be confiscated.

Since learned counsel for the petitioner contends that the alleged truck is not in existence being of 1962 modal, therefore, the Court is granted liberty to recover the surety amount for which the petitioner stood surety while getting the truck released, by adopting all means even coercive one, in case, the petitioner fails to prove that the offending truck was not liable to be confiscated.

Disposed of.

(RAMENDRA JAIN)
JUDGE

7.2.2019
Ashwani

Speaking/Reasoned	Yes/No
Reportable	Yes/No