

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

**CRM-M-23783-2016 (O&M)
Date of decision: 15.01.2019**

Nazim Khan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Arun Kumar, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of the order dated 16.09.2015 (Annexure P-4) passed by the revisional Court, vide which order dated 20.04.2015 (Annexure P-2) passed by the JMIC, Tohana, allowing an application of the petitioner to release the vehicle bearing registration No.MH-34AB-2198 on superdari, was set aside.

Learned counsel for the petitioner submits that the petitioner is registered owner of aforesaid vehicle and at the time, when the petitioner moved an application for releasing the same on superdari, the report from the Investigating Officer/SHO was sought and in that report, the police has given

no objection in releasing the vehicle on superdari in favour of the registered owner i.e. petitioner Nazim Khan. Accordingly, Id. JMIC, Tohana, vide order dated 20.04.2015 (Annexure P-2), allowed the application and released the vehicle on superdari in favour of the petitioner, on furnishing superdginama in the sum of Rs.1,50,000/- with one surety in the like amount subject to the condition that the petitioner will not alienate the vehicle in question during the trial except with prior permission of the Court and will produce the same before the trial Court as and when required.

The State filed a revision before the Additional Sessions Judge on the ground that chasis number and engine number on the vehicle in question are not traceable and therefore, it cannot be ascertained whether petitioner Nazim Khan is owner of the vehicle. The State also relied upon report of the Motor Mechanic. The revisional Court, vide impugned order dated 16.09.2015, allowed the revision, holding that in view of report of the Motor Mechanic, the vehicle cannot be released on superdari in favour of the petitioner.

Learned counsel for the petitioner further submits that the vehicle in question is in possession of the police since 19.03.2015, which is lying unused and the same is parked in the police station and by the passage of time, majority of its parts will be outlived if the vehicle in dispute remained in such a condition in the police station and virtually, it will reduce into the junk and the petitioner will not be in a position to use the same. It is further argued that despite the fact that the vehicle is in possession of the

police for the last more than three and half years, no other person has come forward to claim ownership of the vehicle and it is the petitioner who has claimed that he is owner of the vehicle in question and has also submitted the necessary documents issued by the Transport Department, U.P./R.T.O., Muradabad, showing the ownership of the vehicle in his favour.

Learned State counsel, on instructions from ASI Ajmer Singh, has however opposed the prayer of the petitioner on the ground that it is difficult to ascertain whether the petitioner is owner of the aforesaid vehicle, as there is no visible engine/chasis number on the vehicle.

After hearing learned counsel for the parties, I find that it will be in the interest of justice if the petitioner is directed to deposit an amount of Rs.2.00 lacs in the Govt. Treasury to obtain the superdari of the vehicle in dispute, considering the fact that except for the petitioner, no one else has come forward to claim ownership of the vehicle, which is lying unused for the last three and half years.

Accordingly, this revision petition is allowed. The impugned order dated 16.09.2015 (Annexure P-4) passed by the Addl. Sessions Judge, Fatehabad is set aside and the order dated 20.04.2015 (Annexure P-2) passed by the trial Court is restored.

The trial Court is directed to release the vehicle on superdari on deposit of a sum of Rs.2.00 lacs in the Govt. Treasury with one surety of like amount to its satisfaction subject to the terms and conditions as laid down in the order dated 20.04.2015.

It is further directed that while releasing the vehicle, the concerned SHO can make certain identifiable marks on the vehicle to ascertain the same, as and when it is required to be produced before the trial Court during the course of trial.

15.01.2019
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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No