

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-1791-2018 (O&M)
Date of Decision:- 3.7.2019

Balwinder Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. P.S.Sekhon, Advocate, for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court challenging order dated 14.2.2018 passed by learned Additional Sessions Judge, Mansa, whereby an application filed by him for release of motorcycle bearing registration No.HR-23F-3238 on *superdari* has been dismissed.
2. A few facts necessary to notice for disposal of this petition are that Ranjit Singh, son of the petitioner was apprehended while going on a motorcycle and his personal search yielded recovery of 18 grams of 'Smack'. The motorcycle on which the accused was traveling i.e. motorcycle No.HR-23F-3238 was taken into possession by the police being case property.
3. Since, the motorcycle in question belongs to father of the accused i.e. the present petitioner Balwinder Singh, therefore an application for

releasing the same on *supardari* was moved on behalf of petitioner Balwinder Singh. However, the aforesaid application was dismissed by the trial Court vide order dated 14.2.2018 which has been impugned by way of filing the present petition.

4. Learned counsel for the petitioner while assailing the impugned order has submitted that since the trial is still proceeding and is in fact proceeding at snail's pace, no useful purpose would be served by detaining the vehicle as its disuse and vagaries of weather is likely to deteriorate the condition which would lead to irreparable loss to the petitioner who happens to be father of the accused. Learned counsel in order to hammer forth his submissions has placed reliance in *Gurbinder singh @ Shinder Vs. State of Punjab, DB, P&H 2016 (4) RCR (Criminal) 492.*
5. Opposing the petition, learned State counsel has submitted that since the vehicle in question was apparently used by the accused for commission of offence punishable under the NDPS Act, the application deserves to be dismissed and as such there is no occasion for setting aside order dated 14.2.2018.
6. I have considered rival submissions addressed before this court. No doubt strict provisions has been made in NDPS Act pertaining to confiscation of the vehicle found to have been used in commission of offence and any such vehicle found to be used for commission of offence under the NDPS Act is liable to be confiscated. However, it is only after some finding is returned by the trial Court that such proceedings for confiscation can be initiated. In any case such a

vehicle is liable to be confiscated only after giving due notice to the registered owner. Further, in case the registered owner is able to convince the Court that the vehicle was being used for committing offence without his knowledge or permission, it shall still be open to the trial Court not to confiscate the vehicle in question. In any case, since till date only one PW is stated to have been examined, in my opinion no useful purpose would be served by keeping the vehicle in disuse as condition of the same is likely to deteriorate on account of its disuse.

7. The petition, as such is accepted. The impugned order dated 14.2.2018 is hereby set aside. The vehicle i.e. motorcycle bearing registration No. HR-23F-3238 is ordered to be released on *supardari* to the petitioner who is stated to be the registered owner upon verification of the registration certificate of the motorcycle subject to the condition that the petitioner shall furnish *supardari* bonds to the satisfaction of learned trial Court/Special Court which shall be at liberty to impose any other condition as may be deemed appropriate so as to ensure that the vehicle in question is produced whenever required by the Court.
8. The petition stands accepted in above mentioned terms.

July 3, 2019
mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No