

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

CRR 867 of 2020 (O&M)

Date of Decision: July 08, 2020

Gurcharan Singh

.....Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Gaurav Sharma, Advocate
for the petitioner.

FATEH DEEP SINGH, J. (Oral)

CRM 13120 of 2020

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

Since this application is moved in compliance of order dated 18.05.2020 passed by this Court, the same is allowed subject to all just exceptions. Annexure P-2 is taken on

record. Office to tag the same as per Rule.

CRR 867 of 2020 (O&M)

Notice of the petition.

Mr. Pawan Sharda, Sr. DAG, Punjab puts in appearance on behalf of the State and accepts notice.

Arguments heard. Record perused.

Petitioner Gurcharan Singh who happens to be the owner of the truck bearing registration No.PB06D9013, Engine No. 895663 and Chasis No. 722321 (hereinafter to be referred as 'the Truck') initially moved an application in case bearing FIR No. 134 dated 29.11.2019 under Sections 15/61/85 of NDPS Act registered at Police Station Mohkampura, Amritsar for releasing the truck on superdari. The Court of learned Additional Sessions Judge, Amritsar vide impugned order dated 17.03.2020 dismissed the application and declined to release the same on superdari.

Aggrieved with these orders, the owner has come up in this revision by virtue of Section 401 Cr.P.C. Heard.

Admittedly, the truck as per the stand of the State was taken into possession in the above detailed criminal case on the allegations of recovery of 20 Kgs of poppy husk from the same. It is admitted stand of the State and could not be controverted that the trial is yet to begin. The arguments of Mr.

Karanjit Singh, counsel for the petitioner that the truck belongs to petitioner Gurcharan Singh have not been displaced by the State. No doubt, the vehicle has been impounded for ferrying of a non-commercial quantity of poppy husk, however, keeping in view that the trial is yet to begin and if the vehicle is allowed to be retained by the police, there is every likelihood that there will be loss of its value and utility besides personal and national loss. By denying the petitioner, who happens to be the legitimate owner might result in denial of earning of his bread and butter, which would be infringement of provisions of Article 21 of the Constitution of India. More so, it has not been brought to the notice of this Court that the said vehicle is involved in any other criminal case. Keeping in view the peculiar circumstances and the fact that on account of present Pandemic COVID-19, there is not every likelihood that the trial is not likely to be accomplished in near future and these peculiar circumstances impels this Court to allow the present revision petition. More so, the impugned order certainly suffers for illegality and appears to be passed on surmises and conjectures without being substantiated by any means.

In the light of the same, the present petition is allowed. The truck is ordered to be released on superdari on furnishing of superdari bonds in the sum of Rs.10,00,000/- to

the satisfaction of Illaqua Magistrate/Duty Magistrate with the undertaking of the petitioner that if subsequently the vehicle is found to be involved in any criminal case, the Court reserves its right to cancel the superdari bonds and forfeit the same to the State.

Disposed off.

July 08, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

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