

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

CRM-M-14463-2019
Date of decision: 14.01.2020

Azhar Husain

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mohd. Shahid Hussain, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 02.01.2019 (Annexure P5), passed by the District Magistrate, Jind as well as dated 11.06.2018 (Annexure P-3), passed by the Sub-Divisional Judicial Magistrate, Jind, vide which the application for releasing the vehicle No.HR-38-L-0039 on superdari and the revision against the order dated 11.06.2018 in FIR No.35 dated 17.01.2018 under Section 13(1) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 registered at Police Station City Jind, have been dismissed.

Learned counsel for the petitioner submits that the vehicle in question is a commercial vehicle and it is the only source of the livelihood of the petitioner and the same is in possession of the police since 17.01.2018. It is further submitted that since the said vehicle is lying unused, it will outlive its utility with the passage of time.

Learned counsel for the petitioner has relied upon order dated 14.11.2017 passed by this Court in CRR-4013-2017, vide which, in similar circumstance, this Court has ordered for release of the vehicle on superdari. The operative part of the order is reproduced below:

“Counsel for the petitioner submits that FIR No.411 dated 25.11.2016 under Sections 307/420/506 IPC and Section 13 (1) & 13 (2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 was registered against the petitioner on the basis of some secret information that he along with his co-accused was driving a vehicle loaded with cows from Jakhal towards Uttar Pradesh for the purpose of killing them. It is further submitted that the petitioner is the registered owner of vehicle canter bearing registration No.DL-1M-2968, which was confiscated by the police, while registering the abovesaid FIR No.411. It is also submitted that the said vehicle is lying parked unused in the premises of the police station since 25.11.2016 and almost a period of one year has lapsed and with the passage of time, the same will be reduced into a junk. Counsel for the petitioner has further submitted that the canter is a commercial vehicle and is the only source of income to the petitioner and on this account, the petitioner is suffering heavy financial loss. Counsel for the petitioner has relied upon an order dated 08.08.2017 passed in CRM-M-28724-2017 (Harpal Singh Vs. State of Haryana), where the following observations have been made: -

“Learned counsel for the petitioner contends that Amendment of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (hereinafter referred to as “the Act”), is in process and in a similar case, a

co-ordinate Bench of this Court by the order dated 16.01.2017 passed in CRM No. M- 37389 of 2016 titled as “Isran v. State of Haryana” had also directed the release of vehicle of the petitioner therein subject to the satisfaction of trial Court. In support of his submissions, he has also placed reliance upon the judgment of Division Bench of this Court in the case of “Mainpal v. State of Haryana and others” CWP No.19153 of 2016 decided on 30.05.2017. Learned State counsel does not controvert the submissions made by learned counsel for the petitioner and states that the amendment of the Act is under process. Consequently, the petition is allowed and the impugned orders dated 06.03.2017 (Annexure P-4) and 21.04.2017 (Annexure P-6) are set-aside. The vehicle i.e truck bearing registration No. HR99YV (T)1534 shall be released on superdari subject to the satisfaction of trial Court/Duty Magistrate.”

Similar order has been passed in CRM-M-3881-2017 (Kulwinder Singh Vs. State of Haryana), in which vide order dated 31.05.2017, the vehicle was ordered to be released and in CRM-M-37389- 2016 (Isran Vs. State of Haryana) vide order dated 16.01.2016, vehicle had been ordered to be released on superdari.”

Learned State counsel has not disputed the fact that the vehicle in question is a commercial vehicle and it is lying in the premises police station since 17.01.2018.

After hearing learned counsel for the parties, the present petition is allowed in view of the order dated 14.11.2017 passed in CRR-4013-2017 and the impugned orders dated 02.01.2019 and 11.06.2018

are hereby set aside.

The truck in question be released on superdari in favour of the registered owner, on furnishing superdari bond, subject to the satisfaction of the trial Court/Duty Magistrate/SDJM concerned.

14.01.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No