

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212

CRR-1032-2020

DATE OF DECISION: 27.08.2020

SURINDER KUMAR

... Petitioner (s)

Versus

STATE OF HARYANA

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. K.S. Brar, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

ANUPINDER SINGH GREWAL, J. (ORAL)

Learned counsel for the petitioner contends that the impugned order refusing to release the vehicle of the petitioner on sapurdari is illegal and unsustainable. He has relied upon the judgments of this Court in the cases of Kala Ram Vs. State of Punjab, 2012 (14) RCR (Criminal) 938, Rajesh Kumar Vs. State of Haryana, 2007 (2) RCR (Criminal) 561, Bhupinder Kumar Vs. State of Punjab, 95 Vol.3, (RCR) 38, Tarsem Singh @ Sheru Vs. State of Punjab, 2016(5) RCR (Criminal) 414 and the judgment of the Supreme Court in the case of Sunderbhai Ambalal Desai Vs. State of Gujarat, 2003 (1) RCR (Criminal) 380 to contend that the vehicle, which had been seized while transporting narcotics, ought to be released on sapurdari. He also contends that it is wrongly alleged that the vehicle of the petitioner was also used in another case in FIR No.284 dated 23.12.2018, registered at Police Station Bhattu Kalan. The petitioner himself is not an accused either in the instant case or in any other case under the NDPS Act, and therefore, the

vehicle (Alto car) should be handed over to the petitioner on sapurdari, otherwise, it would be reduced to a piece of junk.

Learned State counsel upon instructions from Inspector Kailash states that the petitioner is not an accused in this case but the vehicle was used in the commission of the offence. She also contends that the prosecution evidence is being led before the trial Court. The petitioner is the registered owner of this vehicle which is in the custody of the police.

Heard through video conferencing.

Admittedly, the petitioner is the registered owner of the vehicle in question which is stated to be in police custody. He is not an accused in the case. The coordinate Benches of this Court in **CRR No.197 of 2016** titled as **Roopinder Kaur Vs. State of Punjab in, decided on 15.03.2016** and in the case of **Tej Singh Vs. State of Haryana, 2020(2) RCR (Criminal) 588**, have held that the vehicle cannot be kept in the police station for an indefinite period. A vehicle kept idle and not in use is likely to be damaged over a period of time.

It is stipulated in section 60 (3) of the NDPS Act, that the seized vehicle is liable to be confiscated only when the owner is given an opportunity to be heard by the Court and he is unable to prove that the conveyance was used without his knowledge. Therefore, during the pendency of the trial and till the prosecution proves its case, it would be in the interest of justice that the vehicle be released on sapurdari.

Consequently, the petition is allowed and the impugned order is set aside. The car in question is ordered to be released on sapurdari to its registered owner to the satisfaction of the trial Court. The petitioner will preserve the said car in the same condition during pendency of the trial and shall not change its appearance or colour. The petitioner will produce the car before the trial Court as and when ordered to do so and if ultimately the Court finds that it is liable to be confiscated. The petitioner shall not sell the car during pendency of the trial. He will neither use nor allow any person to use the car for commission of any offence under the NDPS Act.

(ANUPINDER SINGH GREWAL)
JUDGE

27.08.2020.

SwarnjitS

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