

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

CRR 1115 of 2020 (O&M)
Date of Decision: October 08, 2020

Suresh Kumar		Petitioner
	Versus	
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Arpandeeep Narula, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

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

The petitioner before this Court Suresh Kumar initially moved an application for release of vehicle bearing registration No. HR-19M-3281 on superdari, which was taken into police possession in case FIR No. 832 dated 18.11.2018 under Sections 323, 342, 376, 34 and 506 Police Station Gharaunda, District Karnal. The Court of learned Additional

Sessions Judge, Karnal vide impugned order dated 29.06.2020 summarily dismissed the application. The order is reproduced as below:-

“Present:- Shri Sanjiv Rana, counsel for the applicant.
Shri Surender Kumar, PP for the respondent.

Present is an application for grant on superdari of car bearing No. HR-19M-3281. However, learned Public Prosecutor submits that the said car was used to carry the prosecutrix for the purpose of rape and the same could be required during trial for identification by the witnesses.

In my view, having regard to the submissions of learned Public Prosecutor it shall not be appropriate to release the vehicle on superdari. The same is hereby dismissed. Papers be tagged with the main file”.

-Sd-

(Vivek Singal)

Date of order 29.06.2020 ASJ, Karnal UID No. 483 (Duty)

A close look at the FIR placed on record shows that there is no specific role attributed to the vehicle in question

much less in findings it is mentioned as to the commission of any crime though subsequently there could have been shown vehicle to be involved but what one can discern is the two sides in the case are at loggerheads over relationship of a boy and a girl who belonged to these families who are at dispute. The order on close scrutiny shows without calling upon the State to file reply/response to the application moved by the petitioner/owner and primarily on the ground that same was used to ferry the prosecutrix for facilitating rape and, thus, is required for trial for identification by the witnesses. The application was declined. The lower Court failed to take into consideration that it is a long period of time when the witnesses would testify and by then the vehicle might lose its value and utility. The Court could have easily imposed condition to ensure intactness of the vehicle by all means. The impugned order shows that if there was any justifiable reasons. The due adjudication is in tersely worded order barely on the statement of the prosecutor and has dismissed the application. The conduct of the Court certainly needs to be deprecated whereby a valuable right of a litigant has been put to knots. Thus, undermined the very dispensation of justice pricks judicial conscience. On the face of it the impugned order suffers from illegality and perversity and so is set-aside. The matter is sent back to the concerned Court to give proper opportunity of

hearing and upon adopting due process of law to pass a detailed speaking order showing semblance of application of mind of the Court. The parties shall appear before the Court concerned on 26.11.2020 with the directions to the Court to call for reply of the State and, thereafter, dispose off the matter within 15 days the parties put in appearance.

The petition stands disposed off.

October 08, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

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