

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3428-2018

Date of Decision: 23.09.2020

JAGDEV SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Mehardeep Singh Dullat, Addl. AG Punjab.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

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VIVEK PURI, J. (ORAL)

The present revision has been preferred against the order dated 18.7.2018 passed by the learned Addl. Sessions Judge, Jalandhar vide which the application of Jagdev Singh-petitioner for release of the truck bearing registration No.PB-10-BV-3377 on sapurdari was dismissed.

The FIR bearing No.94 dated 7.6.2018 under Sections 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') was registered at Police Station Sadar against Gurdeep Singh and Jaswant Singh in pursuance of the recovery of 19 quintal of poppy husk being carried in the aforesaid vehicle.

It has not been disputed that Jagdev Singh-petitioner has not been arrayed as an accused though it has been pointed out by learned State counsel that Gurdeep Singh, accused is son of the petitioner. It has also not been disputed that the registration certificate is in the custody of the police and as per the registration certificate, the petitioner has been recorded as the registered owner of the aforesaid vehicle. The release of the vehicle on

contraband was being carried in the vehicle and as such, no satisfactory ground is made out for release of the vehicle on sapurdari.

It may be mentioned here that it will be too early to pre-judge that the vehicle was being used for carrying the narcotic substance with the knowledge or connivance of the petitioner. The vehicle can be confiscated as per the provisions of Section 60(3) of the Act. Moreover, merely because the vehicle has been used to carry narcotic substance and the same has been seized under the Act cannot be termed to be a ground for declining the release of the vehicle on sapurdari. In this regard reference can be made to the Division Bench decision of this Court in **Gurbinder Singh @ Shinder versus State of Punjab; 2016 (4) RCR Criminal 492** wherein it has been laid down as under:

“On a careful perusal of the above observation made by the Hon'ble Supreme Court, we find that no distinction was made between the vehicles seized under the Scheme of Cr.P.C. and the vehicles seized under the NDPS Act. In the special facts and circumstances of that case, the Hon'ble Supreme Court came to a conclusion that the High Court was not justified in releasing the vehicle. The Hon'ble Supreme Court has not laid down in the above judgement that the vehicle seized under the NDPS Act is not to be released on sapurdari. There was also no specific observation that the vehicles seized under the NDPS Act will have to be treated separately while considering the plea for interim custody thereof. Therefore, the above observation made by Hon'ble Supreme Court cannot be cited for rejecting the plea for release of the vehicle seized under the NDPS Act on sapurdari. In Tarsem Singh's case (supra), a totally different issue as to whether a Sub Divisional Judicial Magistrate who was not the Special Judge conferred with the power to try the case under the NDPS Act could pass an order releasing the vehicle on sapurdari had arisen for determination. In the aforesaid case, the Division Bench of this Court has not made any observation that the trial Judge empowered to try the case under the NDPS Act has no authority to release the vehicle for interim custody on sapurdari. Nor was any decision taken in the said case that the vehicle seized under the NDPS Act cannot at all be released on sapurdari”

It was further held as following:-

“In the above facts and circumstances, we hold that the vehicle used for transporting the narcotic drugs and psychotropic substances can also be released on sapurdari invoking the provision under Section 451 Cr.P.C. The reference is answered accordingly.”

In the aforesaid authoritative pronouncement, there cannot be any bar to decline the release of the vehicle on sapurdari in a case under the Act. Moreover, the condition of the vehicle is likely to deteriorate while in custody on account of non-user thereof. The aspect of confiscation of the vehicle can be looked at the appropriate stage but it cannot be termed to be a circumstance to deny the release of vehicle on sapurdari.

For the aforesaid reasons, finding sufficient merit in the revision petition, the same is accepted. The impugned order dated 18.7.2018 is set aside. The aforesaid vehicle is ordered to be released on sapurdari to the petitioner on furnishing sapurdari bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The revision is accepted.

(VIVEK PURI)
JUDGE

23.09.2020

Janki

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