

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. 36106 of 2020
Date of decision 05.11.2020

Vinod Kumar

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. G.C. Shahpuri, Advocate, for the petitioner.

Ritu Bahri, J. (Oral)

This petition under Section 482 Cr.P.C is for issuance of direction to learned trial Court/JMIC, Jagadhri to decide the application of the petitioner, expeditiously regarding release of the vehicle on superdari in case CRM No. 185-2020 in FIR No. 134 dated 03.09.2020 under Sections 379 IPC and 21 (4) of the Mining Act, 1957, Police Station Sadar Jagadhri, District Yamuna Nagar. Further prayer of the petitioner is for release of his vehicle on Superdari.

Issue notice of motion.

On asking of the Court, Ms. Sheenu Sura, DAG, Haryana accepts notice on behalf of respondent-State.

Petitioner is registered owner of Vehicle Tractor-Trolley bearing registration No. HR02-AG-8161. The said vehicle has been seized by the Mining Department illegally and without any basis and handed over to the police Station Sadar Jagadhari on 07.06.2020 (P-1). Thereafter, the above F.I.R No. 134 was registered against the petitioner. The petitioner then filed an application (P-2) before the learned JMIC, Yamuna Nagar at Jagadhari for release of the aforesaid vehicle on Superdari on 15.09.2020 on interim superdari during the pendency of the trial in the aforesaid F.I.R. Then the report was sought of the concerned police

station as well as report from the Mining Department and report was filed by the Mining Department before the learned JMIC on 21.09.2020 (P-3). Now, the case has been adjourned to 19.10.2020 (P-5 colly). However, on the said date, the officer of the Mining Department requested for adjournment on the ground that they are filing appeal against the judgment dated 15.10.2020 passed in CRM-M-19322-2020 and the matter has now been adjourned to 20.11.2020 (P-6).

At the very outset, learned counsel for the petitioner has referred to the judgment of Hon'ble the Supreme Court in a case of ***Sunderbhai Ambalal Desai vs. State of Gujarat 2003 (1) RCR (CrI) 380*** wherein it has been held that Magistrates should exercise their powers under Section 451/457 Cr.P.C and should release the case property on superdari. It has been held that vehicles should not be kept at police station for a long period. These should be given on superdari by taking adequate security to its registered owner or the person claimed it.

Reference has further been made to **CRM-M-35726-2020 titled as Sintu Kumar vs. State of Haryana, decided on 04.11.2020** wherein the petitioner was seeking direction to the Court below regarding release of his vehicle on superdari. The case was disposed of and direction was issued to the Court below to dispose of the application for release of the tractor trolley on superdari, in accordance with law by the next date of hearing, which is fixed as 20.11.2020.

Heard learned counsel for the parties.

A bare perusal of the order dated 19.10.2020 shows that the Officer of the Mining Department has requested for adjournment on the ground that the department intends to file appeal against order dated 15.10.2020 passed in CRM-M-19322-2020, which was passed in favour of the petitioner.

It is not in dispute that the application filed by the petitioner for release of vehicle is to be decided within a period of one month, in view of ***Sunderbhai Ambalal Desai's case (supra)***. Further no appeal has been filed by the

department till date, as informed by learned counsel for the petitioner against order dated 15.10.2020.

Applying the ratio of *Sunderbhai Ambalal Desai's case (supra)*, this petition is being disposed of by giving direction to the respondent to dispose of the application for release of the vehicle on superdari, in accordance with law by the next date of hearing, which is fixed as 20.11.2020.

05.11.2020

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No