

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

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CRM-M-16271-2021.

Date of Decision: 19.04.2021.

Rashid Ali

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Sanchit Punia, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 482 Cr.P.C. has been moved by petitioner impugning the legality of order dated 16.07.2019 (Annexure P/6) passed by learned Sessions Judge, Yamuna Nagar at Jagadhri, in terms of which, revision petition filed by petitioner against order dated 01.07.2019 (Annexure P/3) rendered by learned Judicial Magistrate Ist Class, Bilaspur, has been dismissed, whereby application moved by petitioner for release of his Truck bearing registration No.UP-22AT-1471 on *Sapurdari*, in case FIR No.161 dated 08.10.2018 under Section 13(2) of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 11 of Prevention of Cruelty to Animals Act, 1990, registered at Police Station Chhachhrauli, District Yamuna Nagar, was dismissed.

Learned counsel for the petitioner *inter alia* contends that petitioner is registered owner of vehicle in question which is commercial vehicle. He further submits that vehicle in question is in police possession since long time and is lying in open and its condition and value are deteriorating day by day. He further submits that vehicle in question is perishable in nature and if kept in static position without functional, its body, wheel and other parts will diminish and it will cause loss to petitioner.

Learned counsel for 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 *Sapurdari*. 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 counsel for the petitioner further relied upon judgment

dated 14.01.2020 passed by this Court in CRM-M-14463-2019, wherein

similar order has been passed and the vehicle was ordered to be released on *Sapurdari*.

Notice of motion.

At the asking of Court, Mr. Vikrant Pamboo, Deputy Advocate General, Haryana, accepts notice on behalf of respondent-State. Complete copy of paper book has been supplied to him.

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

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, thus, impugned orders dated 16.07.2019 (Annexure P/6) and 01.07.2019 (Annexure P/3) are hereby set aside. Truck bearing registration No.UP-22AT-1471 be released on *Sapurdari* in favour of its registered owner, on furnishing *Sapurdaginama*, subject to the satisfaction of the Trial Court/Duty Magistrate, as the case may be.

(LALIT BATRA)
JUDGE

19.04.2021

jitender/varinder

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No