

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

121

CRM-M-19018-2021.

Date of Decision: 24.09.2021.

Ram Niwas

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Suneel Ranga, Advocate, for the petitioner.

Mr. Amit Aggarwal, Deputy Advocate General, Haryana.

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 at the instance of petitioner impugning the legality of judgment dated 21.01.2021 (Annexure P/5) passed by learned Additional Sessions Judge, Panipat, dismissing the revision petition moved by petitioner challenging the order dated dated 04.12.2020 (Annexure P/4) rendered by learned Judicial Magistrate Ist Class, Panipat, in terms of which, application moved by petitioner for release of motorcycle bearing registration No.HR-06AU-0972 on *sapurdari*, was dismissed.

Reply dated 24.05.2021 by way of affidavit of Sandeep Kumar, HPS, Deputy Superintendent of Police, Madlauda, District Panipat, already filed on behalf of respondent-State, is taken on record.

Learned counsel for the petitioner *inter alia* submits that as per prosecution version, one Rahul was arrested by the police while he was carrying 24 bottles of countrymade liquor make *Malta* on motorcycle

bearing registration No.HR-06AU-0972 and the said motorcycle was also

taken into police possession, in case FIR No.480 dated 29.11.2020 under Section 61 of Punjab Excise Act, registered at Police Station Madlauda, District Panipat. He further urges that petitioner being registered owner of motorcycle bearing registration No.HR-06AU-0972, moved application for release of said motorcycle on *sapurdari* and there was no objection by the police in the reply, for release on *sapurdari* of said motorcycle to its registered owner, however, the said application was dismissed by Judicial Magistrate Ist Class, citing Section 72-F of Punjab Excise (Haryana Amendment), Act, 2020 (hereinafter referred to as 'Act'). He further submits that issue involved in the case is no more *res-integra* and has already been settled by this Court in case “***Satpal Vs. State of Haryana, CRM-M-22871-2020*** decided on **08.10.2020**”.

Learned State counsel though opposed the present petition by submitting that Section 72F of the Act was a bar for release of the confiscated vehicle but fairly conceded that the case of the petitioner was squarely covered by judgment of this Court in case “***Satpal Vs. State of Haryana, CRM-M-22871-2020*** decided on **08.10.2020**”.

I have heard learned counsel for the parties at length and have carefully gone through the contents of petition as well as reply furnished at the instance of respondent-State.

In **Satpal's** case (*supra*) this Court after considering various provisions of the Act, including Section 72F and relying on the law laid down by the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai versus State of Gujarat AIR 2003 SC 638**, held as under:-

"Counsel for the State as such could not point out any regulations the State had framed providing that the vehicle or

the liquor has to be disposed in the manner as prescribed under Section 72F of the Act. It would be clear from Sections 72 and 81 that the provisions of Cr.P.C. would come into play, whereas for major offences it would not be a summary trial.

Thus, this Court is of the opinion that no useful purpose will be served as such to keep the 40 boxes of liquor stored in the police station alongwith the vehicle Mahindra KUV 100 during the pendency of the trial of the FIR. Resultantly, it can be safely held that the Courts below have failed to exercise the jurisdiction vested in them under the law while dismissing the application for release of the vehicle and liquor on Sapurdari.

Accordingly, the orders dated 16.06.2020 (Annexure P-3) and 23.07.2020 (Annexure P-5) as such are set aside by allowing the present petition and the application which has been filed. The release be ordered in the usual terms by the Trial Court."

In view of above, instant petition is allowed and impugned order dated 04.12.2020 (Annexure P/4) rendered by learned Judicial Magistrate Ist Class, Panipat as well as judgment dated 21.01.2021 (Annexure P/5) passed by learned Additional Sessions Judge, Panipat, are set aside. Consequently, it is ordered that motorcycle make Bajaj Platina bearing registration No.HR-06AU-0972 be released on *sapurdari* to its registered owner on usual terms and conditions to the satisfaction of Trial Court.

(LALIT BATRA)
JUDGE

24.09.2021
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No