

223

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M No.19403 of 2021 (O&M)

Date of decision: 13.07.2021

Amarjit Kaur

....Petitioner

Versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

**Present:** Mr. Prateek Pandit, Advocate  
for the petitioner.

Mr. A.P.S. Gill, DAG, Punjab.

**ARVIND SINGH SANGWAN J. (Oral)**

Prayer in this petition is for setting-aside the order dated 09.10.2020 (Annexure P4) passed by the Judge Special Court, Kapurthala vide which the application filed by the petitioner for releasing the I-20 car bearing registration No.PB41-D-3033 on superdari, was declined during the pendency of the trial in FIR No.126 dated 01.08.2019 registered under Sections 21/29 of the NDPS Act at Police Station Sadar Kapurthala, District Kapurthala.

Counsel for the petitioner has argued that the petitioner is the wife of one Bachittar Singh son of Kulwant Singh, who is the registered owner of the aforesaid car. It is further submitted that the aforesaid FIR No.126 dated 01.08.2019 was registered with the allegations that when the police party headed by SI Jatinder Singh was present on a barrier, it was noticed that a person alighted from an auto-rickshaw while holding a black coloured bag. An I-20 car was parked nearby and the person, who alighted from the auto-rickshaw was seen

#### CASE HEARD THROUGH VIDEO CONFERENCING

going towards the I-20 car. However, on seeing the police party, the driver of the car fled away with car and the said person was apprehended, from whom 5 Kgs Heroin was recovered. It is also submitted that it is the version of the prosecution that in the I-20 car, there were 05 occupants namely Rajbir Singh, Sukhjiwan Singh, Lovepreet Singh @ Lovely, Hans Raj and Dilbag Singh and husband of the petitioner was not present at the spot.

Counsel for the petitioner has also argued that later on, the basis of the disclosure statement of the co-accused, the husband of the petitioner Bachittar Singh was also nominated in this case and was arrested and the said car was taken into police possession. It is further submitted that though it will be a matter of trial whether the involvement of the husband of the petitioner or user of the I-20 car was for the purpose of committing the offence. However, the car is lying parked in the police station since August, 2019 and almost 2 years has elapsed and in this process, the tyres, engine, etc. of the car, may outlive the life as the car is lying parked in open space. Lastly, counsel for the petitioner has relied upon the judgment ***“Sundarbhai Ambalal Desai vs State of Gujarat”***, 2003(1) RCR (Criminal) 380, wherein the Hon'ble Supreme Court, in such circumstances has directed releasing of the vehicle on superdari. Counsel for the petitioner has also relied upon some judgments passed by the Co-ordinate Bench of this Court, to this effect.

Counsel for the State could not dispute the factual position that the husband of the petitioner Bachittar Singh was not an occupant of the I-20 car when the alleged incident took place. It is also not

**CASE HEARD THROUGH VIDEO CONFERENCING**

disputed that he is the registered owner of the car, which is lying parked in the police station, however, it is submitted that in case the car is released, the petitioner may misuse or dispose of the car without the permission of the Court.

After hearing the counsel for the parties, I find merit in the present petition and accordingly, considering the fact that the car is lying unused and is parked in the open space in the premises of police station for a period of about 02 years, it may outlive its life due to non-usage of the same and, thus, the present petition is allowed; the order dated 09.10.2020 is set-aside. The car be released in favour of the registered owner i.e. Bachittar Singh through his wife/petitioner – Amarjit Kaur on superdari subject to her furnishing adequate surety bonds to the satisfaction of the trial Court and an undertaking given by the petitioner or the accused Bachittar Singh that the car will not be disposed of or sold to any third person during the pendency of the trial or on any other terms and conditions, as the trial Court may impose.

The petitioner will also furnish an undertaking before the trial Court that she will produce the car as and when required by the trial Court and will not raise any objection regarding the identity of the same, if on a given date, when the PWs are examined and the car is not produced before the trial Court.

Disposed of accordingly.

**(ARVIND SINGH SANGWAN)**  
**JUDGE**

**13.07.2021**

*yakub*

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No