

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

CRR-1096-2020(O&M)

Date of decision:-28.1.2021

Ravi Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Divjyot S. Sandhu, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This revision petition is directed against order dated 13.7.2020 passed by Judge, Special Court, Kapurthala vide which he had declined the request made by petitioner/accused Ravi Kumar for releasing of truck bearing registration No.PB-13-AB-8506 on superdari to him. The petitioner/accused Ravi Kumar prays that the revision petition be accepted, the impugned order be set aside and the vehicle in question be released to him.

Briefly stated, the facts of the case as per the prosecution version are that on 3.3.2019 the truck bearing registration No.PB-13-AB-8506 was intercepted by the police. It was being driven by Gurpreet Singh

@ Gopi and bag containing 26 kgs. of poppy husk was recovered from the cabin of the truck. Formal FIR in the matter was recorded. Gurpreet Singh @ Gopi was arrested and recovered contraband was taken into police possession. Since Ravi Kumar @ Ravi Sharma happened to be owner of the truck, he was also arrayed as an accused. He had moved an application for release of the truck on superdari, which was dismissed by learned Judge, Special Court, Kapurthala vide order dated 13.7.2020. For ready reference, the order is being reproduced as under:

“This order of mine shall dispose of the application for releasing truck bearing registration No.PB-13-AB-8506, filed by the applicant Ravi Kumar.

Reply to the application alongwith report of SHO filed to the effect that the applicant has already been nominated in eight cases of such nature. The report of SHO is reproduced as under :

- 1.FIR No.250 dated 10.10.2017 U/S 15/61/85 NDPS Act, PS City Kapurthala.
- 2.FIR No.164 dated 29.05.2014 U/S 15/61/85 NDPS Act, PS City Kapurthala.
- 3.FIR No.151 dated 05.06.2007 U/S 15/61/85 NDPS Act, PS Talwandi Choudharian, Kapurthala.
- 4.FIR No.207 dated 30.11.2014 U/Ss 279/337/338/427/304 IPC PS Kotwali Kapurthala.
- 5.FIR No.100 dated 01.08.2002 U/S 15/61/85 NDPS Act, PS Sadar Kapurthala.
- 6.FIR No.218 dated 30.08.2015 U/S 15/61/85 NDPS Act, PS City Kapurthala.
- 7.FIR No.33 dated 01.03.2011 U/S 15/61/85 NDPS Act, PS Narcotic Cell, Kapurthala.
- 8.FIR No.218 dated 05.09.2013 U/S 15/61/85 NDPS Act.

Thus, SHO concerned opposed the application.

I have heard learned counsel for both the parties. During the course of arguments, it has come into notice that the applicant Ravi Kumar is facing trial in case FIR No.250 dated 10.10.2017, under Section 15/61/85 NDPS Act, P.S. City Kapurthala and vehicle i.e. Truck bearing No.PB-13-AB-8506, was taken on sapurdari by the applicant Ravi Kumar vide order dated 12.07.2018, passed by the then learned Judge, Special Court, Kapurthala.

Report of Ahlmad requisitioned. The is reproduced as under :

A case bearing No.400/2018 NDPS Act, FIR No.250 dated 10.10.2017 Police Station City, Kapurthala, titled as State Vs Ravi Kumar, is fixed for 11.08.2020 for prosecution evidence, wherein applicant-accused Ravi Kumar had filed an application for releasing the vehicle i.e. truck bearing no.PB-13-AB-8506, on Sapurdari and the same was released on Sapurdari, subject to furnishing sapurdari bonds in the sum of Rs.Ten Lacs, with one surety in the like amount, by the then Judge Special Court, Kapurthala, on 12.07.2018.

After having considering submissions putforth by counsel for both the parties and going through the file, it is evident that applicant Ravi Kumar, who was apprehended in case FIR No.250 dated 10.10.2017, under Section 15/61/85 NDPS Act, P.S. City Kapurthala, while transporting the poppy husk in truck bearing no.PB-13-AB-8506, it was taken into possession and thereafter, released on sapurdari, vide order dated 12.07.2018, with certain terms and conditions. Again vehicle i.e. truck bearing no.PB-13-AB-8506, was nominated while transporting 26 Kg poppy husk and was apprehended by the police, taken into custody. As the applicant Ravi Kumar, had misused concession for releasing the vehicle on sapurdari and violated the terms and conditions of the order dated 12.07.2018, he is not entitled for the discretionary relief of the court. If the vehicle in question is released, then there are chances of using the same for such like activities. Hence, the instant application for releasing the vehicle i.e. truck bearing no.PB-13-

AB-8506, is hereby dismissed. Papers be attached with the relevant file.”

Feeling aggrieved by such order, the petitioner has knocked at the door of this Court by way of filing the present revision petition, notice of which was given to the respondent - State.

The revision petition is being resisted by the State counsel.

I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the revision petition.

The petitioner comes out to be a habitual offender being involved in as much as 8 criminal cases, most of them under NDPS Act, the details of which have been given in the impugned order itself. The truck in question had been involved in transporting poppy husk regarding which FIR No.250 dated 10.10.2017 under Section 15 of the NDPS Act had been registered with Police Station City, Kapurthala. That truck had been released on superdari to the petitioner but it was again caught while transporting poppy husk with regard to which present FIR was recorded. Petitioner Ravi Kumar is misusing the vehicle for drug trafficking violating the terms and conditions of order dated 12.7.2018 as observed in the impugned order. If the truck is released on superdari to him, there is every possibility of petitioner using it again for the purpose of transportation of contraband, resulting in increased drug trafficking posing danger to lives of various innocent persons, who may succumb to the temptation of taking drugs, in the process becoming drug addicts.

Learned counsel for the petitioner had put forward the plea

that no adequate arrangement is there at the police station for parking of the truck and with the passage of time, the condition of the truck may deteriorate being open to vagaries of nature.

However, I find that the comparative mischief shall be much more if the truck is released on superdari to the present petitioner, who comes out to be a habitual criminal and a drug peddler since that would facilitate more transportation of drugs rather than letting the truck remain in the premises of the police station open to the risk of damage on account of rain, wind and change of season etc. The lives of our people are more precious than damage to the truck.

The impugned order passed by the Court below is detailed and well reasoned. The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the order passed by a Court below or the same is perverse and not otherwise. The impugned order does not appear to be suffering from any illegality or infirmity much less apparent on the face thereof. The order is certainly not perverse or passed in an arbitrary manner. There is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

Finding no merit in the revision petition, the same stands dismissed.

28.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No