

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

CRM-M-40059-2021

Date of Decision: 20.12.2021

Sarabjit Singh @ Loga

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ruhani Chadha, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks setting aside of order dated 15.09.2021 passed by the learned Special Judge, Kapurthala, whereby an application moved by him for release of his Swift Dzire car bearing registration No.PB-09-AE-9217 on superdari in case FIR No.89 dated 16.05.2020 registered at Police Station Kotwali, District Kapurthala, under Section 22 of the NDPS Act, Section 188/260 IPC and Section 3 of the Epidemic Diseases Act (Sections 21/22/27-A/29 of the NDPS Act added later on) has been declined.
2. It is the case of prosecution that on 16.05.2020 one Nekdeep Kumar @ Sunny was apprehended by the police during the course of 'Nakabandi' while he was coming on a Hyundai Venue Car bearing registration No.PB-08-EL-1937 and from whose possession 17 injections of diazepam and 1 kg. of 'Alprazolam' powder was recovered. It is further the case of prosecution that during the

course of interrogation the aforesaid Nekdeep Kumar @ Sunny disclosed names of 8 more persons to be associated with him, which included one Sarabjit Singh @ Loga. It is further the case of prosecution that subsequently another disclosure statement was made by Nekdeep Kumar @ Sunny, wherein he disclosed names of 9 more persons to be his associates in the business of drugs. The police apprehended Sarabjit Singh @ Loga from Jaipur on 03.07.2020 while he was accompanied by Varun Kumar. The prosecution claims that Sarabjit Singh @ Loga as well as Varun Kumar suffered disclosure statements to the effect that they had kept concealed 1 kg. of '*heroin*' in a car, which was lying parked in Kapurthala. Pursuant to aforesaid disclosure statement, the accused are alleged to have led the police party to the nominated place in Kapurthala on 04.07.2020 and are alleged to have got recovered 1 kg. of '*heroin*' from a car bearing registration No.PB-09-AE-9217.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that his car has been picked up from his residence near which it was lying parked and has later been involved in the present case. Learned counsel has further submitted that the trial Court vide impugned order has declined his application for release of the vehicle on superdari mainly on the apprehension that the vehicle in question may be used in similar offence again. Learned counsel has further submitted that his client is willing to furnish an undertaking to the effect that he

shall use the vehicle within the territorial jurisdiction of Tehsil City Kapurthala, District Kapurthala only.

4. On the other hand, learned State counsel has submitted that huge quantity of *heroin* i.e. 1 Kg. was recovered from the car in question, which stands registered in the name of the petitioner and that in these circumstances, no case for releasing the car in question on superdari is made out as the vehicle is likely to be used by the petitioner for committing similar offence again. It has also been informed that the petitioner happens to be involved in 2 other cases registered under the NDPS Act and thus, it will not be appropriate to release the vehicle on superdari to the petitioner.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the vehicle in question stands registered in the name of the petitioner. It is also not in dispute that when the vehicle was seized and *heroin* was recovered from the same, the petitioner was not driving the same. It was lying parked and it is on the basis of alleged disclosure statement that the police is stated to have effected recovery of alleged contraband. In any case, keeping the vehicle parked in a Police Station will not serve any useful purpose. Rather on account of its disuse and on account of vagaries of weather being parked in open, its condition is likely to deteriorate substantially, which would be detrimental to its owner. In these circumstances, this Court is of the opinion that the vehicle in question deserves to be released on superdari to its registered owner.

7. Since the learned counsel appearing on behalf of the petitioner has submitted that he shall furnish an undertaking that the vehicle in question shall be used only within the territorial jurisdiction of Tehsil City Kapurthala, District Kapurthala, it is directed that the petitioner at the time of furnishing superdarinama/bonds before the trial Court for the purpose of getting the vehicle released on superdari, shall furnish a specific undertaking to this effect. The trial Court would be at liberty to impose any other condition as deemed fit so as to ensure that the vehicle in question is produced as and when directed during the proceedings of trial and is not misused.
8. Petition stands accepted of in the above mentioned terms.

20.12.2021

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**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**