

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-38331-2020

Avi Garg

.... Petitioner

Versus

State of Punjab

.... Respondent

2. CRM-M-38362-2020

Kulwant Rai

.... Petitioner

Versus

State of Punjab

.... Respondent

Date of Decision: 18.01.2021

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: - Mr. Hitesh Verma, Advocate
for the petitioner (in both cases).

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Both the cases have been taken up for hearing through video conferencing.

The prayer in these two petitions is to set aside impugned orders dated 31.08.2020 (Annexure P-4 in both cases) passed by the trial Court/Illaq Magistrate, in FIR No. 114 dated 17.08.2020 registered

under Section 379 IPC and Section 21 of the Mines and Minerals (Development and Regulations) Act, 1957 (for short-'the 1957 Act'), Police Station Sadar Faridkot, Faridkot, as well as the orders dated 09.10.2020 (Annexure P-5 in both cases) passed by the Revisional Court/Additional Sessions Judge, Faridkot, vide which separate applications filed by the petitioner(s) for releasing of their loaded trucks bearing Nos. PB-03-BA-4551 (in CRM-M-38331-2020) and PB-03-BA-4651 (in CRM-M-38362-2020) were dismissed.

Brief facts of the case are that while registering the aforesaid FIR, the police took into possession the aforesaid vehicles which were loaded with sand on the premise that the driver/owner of the trucks have committed an offence under the 1957 Act.

Learned counsel for the petitioners have moved separate applications before the trial Court/Illaq Magistrate for releasing the same on '*Superdari*' as the trucks are loaded with sand and lying parked in the police station since, August, 2020 and the petitioners are paying the bank installments without earning anything.

Learned counsel further submits that the petitioners have the only source of income by plying the aforesaid trucks on rent, therefore, the trucks should be released.

Learned counsel has further argued that with the passage of time, the life of tyres and engine of the trucks be worn-out as they lying un-used and, therefore, they should be released.

Learned counsel further submits that both the Courts below have dismissed the applications for release of aforesaid trucks on

'*Superdari*' primarily on the ground that some administrative instructions are issued by the Secretary-cum-Director, Mines and Geology, Punjab, Chandigarh dated 12.06.2020, on the basis of an order passed by National Green Tribunal that while releasing vehicles on '*Superdari*' the penalty amount as reflected in the said order is to be paid.

Learned counsel for the petitioner submits that both the petitioners are not in a position to pay the aforesaid amount and the penalty, if any, is to be imposed at the time of final disposal of trial.

Learned State counsel could not dispute the above factual position. However, he submits that under the provisions of the 1957 Act, the Authority has power to confiscate and seize a vehicle which is used in contravention of the same.

After hearing learned counsel for the parties, considering the submissions made by both the counsels and also considering that the vehicles are lying un-used since, August, 2020 and cannot be kept in police station for un-limited period, both these petitions are allowed. The trial Court is directed to release vehicle Nos. PB-03-BA-4551 (in CRM-M-38331-2020) and PB-03-BA-4651 (in CRM-M-38362-2020) on '*Superdari*', subject to furnishing '*Superdarinama*' to the tune of ₹5,00,000/- each before the trial Court.

January 18, 2021
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No