

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-1279-2020 (O&M)
Date of Decision:-30.11.2021

Jaskaran

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. D.S. Virk, Advocate for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner-Jaskaran has approached this Court challenging order dated 16.9.2020 vide which the learned Additional Sessions Judge, Sirsa has dismissed an application moved by the petitioner for release of his vehicle bearing registration No.HR-44D-9786 on *superdari*.
2. The petitioner is facing trial in respect of FIR No.130 dated 9.5.2020 registered at Police Station Civil Lines, Sirsa, District Sirsa under Section 21 of Narcotic Drugs & Psychotropic Substances Act and Section 188 of Indian Penal Code, wherein allegations have been levelled to the effect that the petitioner was found in possession of 95 grams of '*heroin*' during the period when lockdown had been imposed on account of spread of pandemic COVID-19.

3. Learned counsel for the petitioner submits that the petitioner is the registered owner of 'HYUNDAI I20' car bearing registration No.HR-44D-9786 and since the conclusion of trial is likely to consume time and the allegations against him are yet to be established, he is entitled for release of his vehicle on *superdari*, which had been taken into possession by the police as case property.
4. On the other hand, learned State counsel has submitted that although the ownership of the petitioner is not in dispute but it is the previous conduct of the petitioner, which would not justify release of the vehicle on *superdari* inasmuch as the petitioner happens to be involved in another case under NDPS Act i.e. FIR No.147 dated 6.6.2018 registered at Police Station Sadar, Sirsa under Section 21 of NDPS Act, wherein also the same car had been taken into possession by the police as case property and had been released on *superdari* but the petitioner after getting the said vehicle released on *superdari* in the earlier case, has repeated a similar offence. It has thus been submitted that there is likelihood that the petitioner may indulge in similar offences again if the vehicle is released to him. Learned State counsel has, however, informed that although charges have been framed in the instant case but none out of the cited 21 PWs has been examined. It has also been informed that apart from the present case, the petitioner stands involved in one more case i.e. in FIR No.147 dated 6.6.2018.
5. I have considered rival submissions addressed before this Court.
6. It is the specific case of prosecution that the petitioner was caught red handed while travelling in car bearing registration No.HR-44D-9786 and was found in possession of contraband i.e. 95 grams of '*heroin*'. The car in question had

been taken into possession by the police as case property. It has already been more than 1½ years when the occurrence took place and ever since the car in question has been lying in the police station. It goes without saying that the condition of vehicle on account of its disuse and on account of vagaries of the weather is likely to deteriorate substantially. As such, no useful purpose would be served by keeping the vehicle detained in the police station. The conclusion of trial is likely to consume time as till date not even a single witness out of the cited 21 PWs has been examined. This Court also cannot overlook the fact that the petitioner stands involved in one more case under NDPS Act and that the vehicle in question had earlier been released to him on *superdari* and thereafter the petitioner happens to be involved in the instant case. In these circumstances, this Court is of the opinion that though detaining the vehicle any further will not serve any useful purpose but while releasing the same some strict conditions are required to be imposed.

7. In view of the aforesaid discussion, the petition is accepted and the impugned order dated 16.9.2020 passed by learned Additional Sessions Judge, Sirsa is hereby set aside. The application filed by the petitioner for release of his vehicle on *superdari* is hereby accepted. The vehicle in question shall be released to the petitioner subject to his furnishing adequate surety and subject to any such condition as the Trial Court may choose to impose at the time of release of the vehicle in question on *superdari*. It shall be open to Trial Court to impose any such condition that apart from some surety, some amount be also deposited in cash, which upon involvement of vehicle in any similar offence again would stand forfeited. The Trial Court may also consider the feasibility of imposing any such condition that petitioner would not be

permitted to take the car out of municipal area/local area concerned except with prior intimation to police station concerned.

30.11.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No