

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

CRM-M-46534-2021

Date of Decision: 22.11.2021

Karnail Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Rahul Sharma, Advocate,
for the Petitioner.

SUDIP AHLUWALIA J. (ORAL)

Notice of motion.

2. On asking of the Court, Mr. B.S. Sewak, Addl. Advocate General, Punjab accepts notice on behalf of the Respondent/State. A copy of the Paper-book be handed over to him.

3. In this Petition, the Petitioner, who happens to be the registered owner of Truck bearing No.PB-10-CJ-1691 has assailed the order passed by the Ld. Judge, Special Court, Fatehgarh Sahib on 12th August, 2021 vide which the Petitioner's prayer for release of his aforesaid Truck on *sapurdari* basis was dismissed.

4. In dismissing such prayer, the Ld. Court below had observed that “*the accused happens to be the registered owner of the said truck who was found misusing the truck for transporting large quantity of contraband. This court is of the considered opinion that in case the truck is released on sapurdari, the said vehicle may be used for transportation of contraband,*

since the accused is also on bail. Moreover, as the heavy recovery has been effected from the truck, therefore, the same is liable to be confiscated to the State as per provisions of Section 60(3) of N.D.P.S. Act. Hence, this application is dismissed. Record of this application be attached with remand papers.”

5. Reliance of the Petitioner in this regard is placed on the decision of the Hon'ble Supreme Court in the case of '**Sunderbhai Ambalal Desai vs. State of Gujarat**', 2003(1) R.C.R. (Criminal) 380, in which the Apex Court had observed *inter alia* -

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

6. Relying upon the aforesaid decision a Co-ordinate Bench of this Court in the case of “**Harpreet Singh vs. State of Punjab**, 2006(4) R.C.R.(Criminal) 719”, had similarly directed release of the vehicle from which contraband in the form of *poppy husk* was allegedly seized (as in the present case) in favour of the concerned Petitioner.

7. The case of the Petitioner is squarely covered by the ratio of the aforesaid decision. Even if the vehicle, in question, is liable to be finally

confiscated there is no rational at this stage to keep it ideal in the Police Station as the trial is likely to take some time.

8. Consequently, the present Petition is allowed, the impugned order dated 12th August, 2021 passed by Ld. Judge, Special Court, Fatehgarh Sahib, is set aside and the vehicle in question is ordered to be released on *sapurdari* to the Petitioner on his executing personal bond in the sum of Rs.15.00 lacs with one surety in the like amount and the undertaking to the effect that as and when the trial Court requires the above said Truck, the Petitioner will produce the same in the same condition at his own cost before the concerned Court. He shall also furnish undertaking to the effect that in future, he will not allow his aforesaid vehicle to be used for such an offence.

November 22, 2021

Dpr

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No