

**231 IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRA-S-2362-2019 (O&M)
Date of decision: 05.08.2021**

Jarnail Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Harsh Chopra, Advocate
for the appellant.

Mr. Joginder Pal Ratra, DAG, Punjab.

(Through Video Conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this appeal is to set aside the order dated 18.07.2019 passed by the Judge Special Court, Rupnagar vide which, the vehicle bearing registration No. HP-12-D-9919 i.e. truck was confiscated while convicting the accused namely Harpal Singh.

Learned counsel for the appellant submits that since convict Harpal Singh has undergone his entire sentence, he has not preferred any appeal against his conviction.

Learned counsel for the appellant further submits that the aforesaid truck in question was taken in possession by the police on the date of registration of the FIR i.e. on 14.06.2017 and a period of about 04 years has passed and the same is lying unused in the premises of the police station and has virtually reduced to junk as its tyres and other parts of the body have lost their life.

Learned counsel for the appellant further submits that

appellant-Jarnail Singh is the registered owner of the truck, which was taken in possession from accused Harpal Singh as he was found transporting 17 kgs of poppy husk.

Learned counsel for the appellant further submits that Harpal Singh was employed as a driver and it was not in the knowledge of the appellant that he was carrying some contraband in the truck and that the appellant was waiting for the main case to be decided and that is why he has moved an application before the Judge Special Court, Rupnagar after the main trial relating to Harpal Singh was decided and the truck in question was confiscated.

Learned counsel for the appellant further submits that since Harpal Singh has already undergone the entire sentence and even post conviction, a substantive period has passed, the truck in question may be released in favour of the present appellant, who is the registered owner of the same.

Learned counsel for the appellant has relied upon the judgment of this Court in **2016 (4) R.C.R. (Criminal) 492 Gurbinder Singh @ Shinder versus State of Punjab**, wherein, the Division Bench of this Court has held that no purpose will be served in keeping a vehicle in the custody of the police when it is parked unattended as there is every possibility that the valuable parts of the vehicles are taken away or stolen. It is also observed in this judgment that there is no bar for the Court to release the truck on furnishing surety bond by the registered owner of the truck.

Learned counsel for the appellant further submits that the truck in question was taken on loan from the financial institution and it was in fact the source of income for the appellant and therefore, he is continuously

suffering financial loss on account of seizure of the truck.

Learned State counsel does not dispute the factual position. It is also not disputed that the truck is lying parked in the police station for the last about 04 years without any use.

After hearing learned counsel for the parties and also in view of the judgment passed in Gurbinder Singh @ Shinder's case (supra), I find merit in the present appeal.

Accordingly, the present appeal is allowed. The impugned order dated 18.07.2019 passed by Judge Special Court, Rupnagar is set aside.

The Judge Special Court, Rupnagar is directed to release the truck in favour of the registered owner/appellant on furnishing adequate surety to its satisfaction.

05.08.2021
Chetan Thakur

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No