

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

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**CRR-2242 of 2019 (O&M)
Date of Decision: 24.03.2021**

Baljit Singh @ Billa

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ashish Aggarwal, Advocate,
for the applicant-petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

CRM-31235 of 2020

Vide this application, modification in the headnote as well as in the prayer clause of the accompanying petition is sought, to the extent that the registration number of the truck as is sought to be released on *sapurdari*, is sought to be corrected to RJ-07-GA-6757 instead of RJ-07-GA-6557.

A reply having been filed to the application vide an affidavit dated 18.03.2021 of the DSP, Sub-Division Valtoha, it has been admitted that the number of the vehicle was, erroneously given in the FIR as also in the

report submitted under Section 173(2) of the Cr.P.C..

That being so, this application is allowed and the aforesaid amendment in the headnote in the accompanying petition, as also in the prayer clause thereof, is also allowed to be made.

CRR-2242 of 2019

By this petition, the order passed by the learned Judge, Special Court, Tarn Taran, on 08.02.2019, is sought to be set aside, by which the vehicle in question had been refused to be released on *sapurdari*, on the ground that it could be used again for the same purpose if released to the petitioner.

Learned counsel for the petitioner relies upon a judgment of a Division Bench of this court in **Gurbinder Singh @ Shinder v. State of Punjab** 2016(4) RCR (Criminal) 492. The facts of that case were that a car allegedly being used for transporting 20 grams of heroin was seized by the police, and a similar application filed for the release thereof had been refused, leading to that order being challenged before this court and with a co-ordinate Bench of this court having differed with the orders/judgments passed in similar cases, the matter was referred to a Division Bench.

After noticing the facts of that case, it was held by the Division Bench as follows:-

“21. In the above facts and circumstances, we have no hesitation to hold that there is no provision under the NDPS Act debarring the release of the vehicle for interim custody. The provision under Section 451 Cr.P.C. which is found not inconsistent with the provisions of the NDPS Act is applicable to the vehicle seized under the NDPS Act as well. No differential treatment to the vehicle seized under the NDPS Act is contemplated either under the provisions of the NDPS Act or under the ratio laid down by the Court of law. In our

considered view, the law laid down by the Hon'ble Supreme Court in Sunderbhai Ambalal Desai's case (supra) will apply to the vehicles seized under the NDPS Act as well. Any contrary view taken by the Courts of law would be against the interest of the owner of the vehicles, the public at large and the State.

22. In the above facts and circumstances, we hold that the vehicle used for transporting the narcotic drugs and psychotropic substances can also be released on sapurdari invoking the provision under Section 451 Cr.P.C.. The reference is answered accordingly.

23. The revision petition be posted before the learned Single Judge for determination of the revision in the light of the reference answered by us.”

Upon the aforesaid contention, learned State counsel naturally could not deny the ratio of the aforesaid judgment, but submits that the problem would still be that the vehicle can be misused again for the same purpose.

Having considered the matter, though of course what learned State counsel has argued is not incorrect, however, upon query, he submits that as per his instructions, there is no other criminal case registered against the petitioner.

That being so, with the matter still under-trial as to whether the petitioner in fact has committed any offence or not, in the opinion of this court, the ratio of the Division Bench would be applicable to the present case and consequently, without making any comment on the actual merits of the case, as to whether the vehicle was actually used in the transportation of any contraband or not, the petition is allowed, with the impugned order set aside.

The vehicle in question would be released to the petitioner during the duration of his trial (who is stated to be the registered owner thereof even as per the affidavit of the DSP), upon him furnishing the requisite bonds before the trial

court, with of course an undertaking to be given by him that the vehicle would never be used for any illegal activity/purpose.

March 24, 2021
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(AMOL RATTAN SINGH)
JUDGE