

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

266

CRR-2723-2019 (O&M)
DATE OF DECISION: 15.12.2021

AJAY DHAKA

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Satnam Singh Gill, Advocate for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

ANUPINDER SINGH GREWAL, J. (ORAL)

CRM-32237-2019

There is a delay of 27 days in preferring the revision petition.

Issue notice in the application.

At the asking of the court, Ms. Aditi Girdhar, AAG, Haryana accepts notice on behalf of the non-applicant/respondent.

Heard.

For the reasons mentioned in the application, the same is allowed and delay of 27 days in preferring the revision petition is condoned.

MAIN CASE

The petitioner is seeking quashing of order dated 21.06.2019 passed by learned Additional Sessions Judge, Kurukshetra, in case FIR No.203 dated 18.05.2019, under Sections 15/18/29-61-85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' - for short), registered at Police Station Kurukshetra University, Kurukshetra, whereby application of the petitioner for releasing his vehicle on 'sapurdari' has been dismissed.

Learned counsel for the petitioner contends that the vehicle is lying in an open space and there is no parking space. He further contends that the petitioner may be granted interim custody of the vehicle and he has relied upon the judgment of this Court in the case of **Gurbinder Singh @ Shinder versus State of Punjab, 2016 (4) RCR (Criminal) 492.**

Learned State counsel, while relying upon the reply, contends that the alleged recovery of 110 kg poppy husk (commercial quantity) and 2 kg opium (non-commercial quantity) has been effected from this vehicle.

Heard.

The petitioner is facing trial in case FIR No.203 dated 18.05.2019, under Sections 15/18/29-61-85 of the NDPS Act, registered at Police Station Kurukshetra University, Kurukshetra. Recovery of 110 kg poppy husk (commercial quantity) and 2 kg opium (non-commercial quantity) is alleged to have been effected from the vehicle of the petitioner. It has been held by a Division Bench of this Court in the case of **Gurbinder Singh @ Shinder (supra)** that it is for the trial Court to take a decision with regard to confiscation of a vehicle only on the conclusion of trial and a vehicle seized under the NDPS Act cannot be kept idle till the order of confiscation is passed at the conclusion of trial. A Coordinate Bench of this Court in the case of **Mange Ram @ Mangi versus State of Haryana, CRM-M No. 39581 of 2021, decided on 18.11.2021**, has directed the release of the vehicle which was allegedly seized at the time of recovery of contraband. The petitioner is an under-trial. There is no order with regard to confiscation of the vehicle. It would, thus, be in the interest of justice if the vehicle is ordered to be released on 'sapurdari'.

Consequently, the petition is allowed and the impugned order dated 21.06.2019 is set aside. The vehicle is ordered to be released on 'sapurdari'. The Court concerned shall be at liberty to apply conditions as it deems necessary for the release of the vehicle.

Criminal miscellaneous application, if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

15.12.2021

SwarnjitS

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No