

(253) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2294-2021(O&M)
Date of Decision: 25.08.2022

Jagwinder Singh @ Rinku

... Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rakesh Sobti, Advocate for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the impugned order dated 05.11.2020 passed by the learned Special Judge, Moga (Annexure P-1), whereby the application moved by the petitioner for releasing the vehicle Pick Up Mahindra bearing registration No.PB-05N-9639, Chassis No.81B16552 and Engine No.GA81A12290 on *superdari* impounded as case property in case FIR No.65 dated 03.07.2019 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered with Police Station Ajitwal, District Moga to the petitioner being the actual owner was dismissed.

2. The brief facts of the case are that the petitioner came to be arrested in the aforesaid FIR No.65 dated 03.07.2019, while he was allegedly driving the vehicle in question which was loaded with 75 kilos poppy husk. The investigation was completed and challan submitted against the petitioner and certain other accused. During the pending proceedings, the petitioner

moved an application for release of the said vehicle on *superdari* but the same was dismissed by the Trial Court vide impugned order dated 05.11.2020 passed by the learned Special Judge, Moga (Annexure P-1). It is this order which is under challenge in this petition.

3. The learned counsel for the petitioner contends that the petitioner was arrested in the present case allegedly while he was driving the vehicle in question laden with 75 kilos of poppy husk. However, he has since been granted the concession of regular bail by this Court vide order dated 18.08.2020 passed in CRM-M-37301-2019 (Annexure P-3). The vehicle in question is parked in the open in the District Malkhana since 03.07.2019 and the adverse weather conditions is leading to the deterioration of the condition and value of the new Pick Up Mahindra vehicle. Since the vehicle is in a static position without being functional, its body as well as tyres and other parts will diminish in quality over a period of time and the vehicle would soon be rendered redundant. He thus, states that since three years have elapsed from the time the vehicle was taken into police custody, the said vehicle be released to him on *superdari* on conditions to be imposed by this Court. Reliance is placed on the orders of this Court in **Harpreet Singh Versus State of Punjab, 2006(4) RCR (Criminal) 719**, **Hunny (Honey) Versus The State of Haryana, Criminal Appeal No.S-3347-SB-2017, decided on 26.10.2017** and **Sunil Kumar Versus State of Haryana, CRM-M-37712-2018, decided on 22.10.2018**.

4. On the other hand, the learned State counsel submits that the contraband in question was recovered from the vehicle sought to be released on *superdari*. In view of Section 60 and 61 of the Narcotic Drugs and

Psychotropic Substances Act, the vehicle cannot be released as such, as there is a possibility that it can be put to illegal use once again by the petitioner.

5. I have heard the learned counsel for the parties at length.

6. This Court in Hunny (Honey's) case (supra) dealt with a similar controversy and ordered the release of the vehicle on *superdari* obviously for the reason that in case the vehicle was allowed to be parked in a open place in the premises of the Police Station, it would certainly affect its utility and diminish in value rendering it useless as it would turn into junk over a period of time. Similar is the position enumerated by this Court in the case of Sunil Kumar (supra) and Harpreet Singh (supra).

7. In view of the above, the impugned order dated 05.11.2020 passed by the learned Special Judge, Moga (Annexure P-1) is hereby set aside and the vehicle is ordered to be released to the petitioner on *superdari* on his furnishing personal bond in the sum of Rs.5 lakhs with one surety in the like amount before the Trial Court with an undertaking that as and when the vehicle is required by the Trial Court, the petitioner shall produce the same in the same condition at his own cost before the concerned Court. He shall also furnish an undertaking to the effect that in future, he would not allow the said vehicle to be used for any illegal purpose.

(JASJIT SINGH BEDI)
JUDGE

25 .08.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No