

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

CRM-M-9903-2022
Date of Decision:-08.03.2022

ALKESH

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Navneet Singh, Advocate
for the petitioner.

KARAMJIT SINGH, J. (Oral)

The present petition has been filed by the petitioner under Section 482 Cr.P.C. with a prayer for quashing the impugned order dated 15.9.2021 (Annexure P-4) passed by Judicial Magistrate Ist Class, Kurukshetra, which was affirmed by the Additional Sessions Judge, Kurukshetra vide its order dated 14.2.2022 (Annexure P-6) whereby the application moved by the petitioner for release of his vehicle bearing No.HR-56-B-7218 on Superdari was declined.

Notice of motion.

On the asking of the Court, Ms. Harpreet Kaur, AAG, accepts notice on behalf of State of Haryana.

The counsel for the petitioner has submitted that aforesaid vehicle of petitioner was illegally seized by Mining Department and he approached the Illaqa Magistrate for its release on Superdari but his request was declined by the said Court vide order dated 15.9.2021. That the petitioner filed revision petition but remained unsuccessful as the same was dismissed by the Court of Additional Sessions Judge, Kurukshetra vide order dated 14.2.2022. The counsel for the petitioner further submitted that FIR has already been registered against the petitioner for indulging in illegal mining which resulted into seizure of the aforesaid vehicle. The counsel for the petitioner further submitted that as the petitioner is facing criminal charges, the provisions of Sections 451 and 457 Cr.P.C. are applicable in the present case and in this situation the Courts below should have released the vehicle on Superdari in the light of the judgment of the Apex Court in **Sunderbhai Ambala Desai vs. State of Gujarat, 2002(10) SCC 283**. The counsel for the petitioner also referred to order dated 15.10.2020 passed in CRM-M-19322-2020 **Irfan vs. State of Haryana and another**, whereby this Court directed that the vehicle stated to be involved in illegal mining, shall be released on Superdari as ordered by the Judicial Magistrate Ist Class and the order of confiscation dated 21.8.2020 was also quashed in the interest of justice having been imposed without any jurisdiction by the Mining Officer during the pendency of the proceedings. The counsel for the petitioner also placed reliance on **M/s K.C. Stone Crushing Company and Another vs. State of Haryana and Others, 2021(2) RCR (Criminal) 469**.

The State counsel while opposing the present petition contended that there is no illegality or infirmity in the impugned orders.

However, the fact regarding registration of FIR has been admitted by the State counsel. It is further contended that the Mining Department has already directed the petitioner to deposit the compensation amount through seizure order and till the deposit of the same, no ground is made to release the vehicle on Superdari.

I have considered the submissions made by the counsel for the parties.

The vehicle in question was seized by the Mining Department as it was stated to be involved in illegal mining. Admittedly FIR No.363 dated 30.8.2021 under Section 379 IPC and Section 21(4) of the Mining Act was later on registered with regard to aforesaid allegations of illegal mining. So provisions of Sections 451/457 Cr.P.C. are applicable in the present case and the Magistrate has got power to release the vehicle in question on Superdari to its registered owner in the light of the law laid down in **Sunderbhai Ambala Desai's** case (supra).

During arguments, both the counsel made prayer that let the present petition be disposed of in terms of **CRM-M-54622-2021** titled as **Ankit vs. State of Haryana** decided by this Court on **14.02.2022**.

In the light of the above, the present petition is allowed and the impugned orders dated 15.9.2021 (Annexure P-4) and dated 14.2.2022 (Annexure P-6) are hereby set aside and the matter is remitted back to the Court of concerned Judicial Magistrate Ist Class, Kurukshetra to decide the matter afresh in accordance with law within a period of '**one month**' from the date of receipt of copy of this order. It is further made clear that no order

regarding confiscation of vehicle in question be passed till the disposal of Superdari application of the petitioner regarding release of vehicle in question.

(KARAMJIT SINGH)
JUDGE

08.03.2022
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No