

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

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CRM-M-27332-2021 (O&M)

Date of Decision: 13.09.2022

PARMOD KUMAR DIXIT

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Aditya Sanghi, Advocate,
for the petitioner.

Mr. Pawan Kumar Jhanda, AAG Haryana.

HARNARESH SINGH GILL, J.

The petitioner challenges the order dated 14.01.2021 passed by the learned Additional Sessions Judge, Hisar, vide which an application filed by the petitioner for release of his Vehicle i.e. truck bearing Registration No. UP-82-T-3125, on Sapurdari, was declined.

Learned counsel for the petitioner contends that the petitioner is the registered owner of the truck in question, which has been taken into custody in case FIR No.363 dated 16.08.2020, under Section 20 of the NDPS Act, at Police Station Urban Estate, Hisar; that, at the time of the alleged occurrence, the truck was been driven by co-accused, namely, Subhash, who was apprehended at the spot along with 140 kg 60 gram ganja and that the petitioner was not named in the FIR and had been indicted in the present case on the basis of the disclosure statement of the co-accused. He further contends that the aforesaid vehicle of the

petitioner, taken by the police in its possession, is lying parked in the Police Station and is deteriorating day-by-day and that when the petitioner moved the aforesaid application for its release on Sarpudari, the same was declined observing that there is likelihood of indulging again in supply of narcotics, the truck in question cannot be released.

While referring to the decision of the Division Bench of this Court in Gurbinder Singh @ Shinder Singh Vs. State of Punjab, 2016(4) RCR (Criminal) 492 and Single Bench in Rahul Kumar @ Rai Vs. State of Punjab, bearing CRR No.3948-2018, decided on 07.05.2019 , the learned counsel for the petitioner would submit that the impugned order passed by the trial Court is legally not sustainable and thus, the vehicle of the petitioner, deserves to be released on Sapurdari.

On the other hand, while defending the impugned order, the State counsel would submit that the learned trial Court, has rightly observed that the petitioner is the main supplier of the drugs and the vehicle in question if released on Sapurdari, would again be used by the petitioner for the said purpose. He further submits that the petitioner is the registered owner of the truck and that huge recovery of contraband was effected in the present case and therefore, no indulgence is required to be granted to the petitioner.

I have heard the learned counsel for the parties.

Indisputably, the petitioner is the registered owner of the truck and was not apprehended at the spot. The petitioner has been indicted in the present case on the disclosure statement of the co-accused.

Further, a perusal of the impugned order would show that the learned trial Court has relied upon the police report not to release the vehicle. The fact, whether or not the vehicle was earlier involved in the similar nature of the crime, is a question, though could be one of the concerns for the investigating agencies, yet the fact remains that the idle parking of the vehicle in the police station would serve no purpose. It is not the case of the prosecution that it required the vehicle for the investigation purposes.

So far as issue regarding the release of the vehicle impounded or taken into possession by the police in an NDPS case is concerned, it stands settled in Gurbinder Singh @ Shinder's case (supra).

It was held by the Division Bench as under:-

“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 no 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 wel. 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.”

In view of the above, the present petition is allowed. The impugned order is set aside and the aforesaid vehicle of the petitioner is ordered to be released on *Sapurdari*, subject to the appropriate conditions to be imposed by the trial Court.

The petitioner is further directed to produce the vehicle on each and every date and whenever called for by the learned trial Court.

However, it is made clear that in case, the petitioner's vehicle is again found involved in any other crime, then the same will be a ground for the permanent seizure of the said vehicle.

13.09.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*