

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

112

CRR-1207-2022

Date of Decision: 01.06.2022

SURENDER KUMAR

.....PETITIONER

Versus

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. S.K.Bishnoi, Advocate
for the petitioner.

Mr. P.P.Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner is an accused in FIR No. 0420 of 01.09.2021 registered at Police Station City Fatehabad, District Fatehabad, wherein, offences constituted under Sections 394, 342, 34, 397, 201 IPC, and, Section 25 of the Arms Act, are embodied.

2. After presentation of a report under Section 173 Cr.P.C., by the investigating officer concerned, before the learned Committal Court, the learned Court committed the case for trial, before the learned Sessions Judge concerned. But during the pendency of trial, as became entered upon, against the accused, qua the petition FIR, the owner of the vehicle concerned, moved an application under Section 451 Cr.P.C. claiming the release of the crime vehicle, on superdari to him. The crime vehicle is, motorcycle bearing registration No. HR-22S-7043.

3. However, the learned Sessions Judge concerned, proceeded to decline the above relief to the petitioner. The petitioner becomes aggrieved by the apposite order made on 11.04.2022.

4. A perusal of the petition offences, qua which the accused are facing trial, does not reveal that the crime vehicle became used by the accused for commission of offences, under the NDPS Act.

5. If so, the proceedings for confiscation, as are amenable for becoming drawn against the crime vehicle, as, becomes used for the commission of offences under the NDPS Act, may not be drawable, in respect of the petition offences, which are rather constituted in the relevant provisions of the IPC. Therefore, the crime vehicle was amenable for being released, on superdari, to the registered owner thereof.

6. However, the above relief became declined to the registered owner concerned, merely on the ground that, there is a re-likelihood of his using it, for the re-commission of offences.

7. The above reason for declining relief to the petitioner, is not worthy of acceptance, as any apprehension qua its being reused, for commission of crimes, would become undone, on imposition of a condition upon the applicant that, if he re-uses it for crime purposes thereupon, the vehicle concerned, shall become amenable for its confiscation.

8. Consequently, the impugned order is set aside.

9. The SHO of the Police Station concerned, is directed to release the crime vehicle to the petitioner, upon production before him, the registration certificate besides, his executing a superdari bond, comprised in a sum of Rs. one lakh, with one surety in the like amount. Furthermore, the

petitioner shall give an undertaking that, if he reuses the vehicle concerned, for re-commission of offences, thereupon he shall abandon his rights, to, upon conclusion of trial, to seek its release to him, and, with a further undertaking that, it shall rather become amenable for confiscation to the State of Haryana.

10. If the original of the RC concerned, is on the judicial records, then the certified copy thereof, be supplied to the applicant-petitioner, for his becoming facilitated to receive the benefit of the order above.

11. Disposed of.

(SURESHWAR THAKUR)
JUDGE

01.06.2022
kavneet singh

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