

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

CRR-2225-2018

Reserved on: 21.03.2022

Pronounced on: 19.04.2022

Inderjeet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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

Mr. Karanbir Singh, AAG Punjab.

VINOD S. BHARDWAJ J.

The present petition raises a challenge to the order dated 25th April 2018 passed by the Judge, Special Court, Ludhiana, whereby the application of the petitioner for release of his vehicle-Hyundai Creta Car bearing registration number PB-29 V-6300 on sapurdari has been declined.

2. Briefly summarized, the facts of the case are that case bearing FIR No. 83 dated 21.04.2017 was registered under Section 22/61/85 of the NDPS Act at Police Station Meharban, District Ludhiana. On the fateful day, the Police party was on patrolling duty in search of suspected persons and drug smugglers, when at 12:15 AM, a car was seen coming from Meharban side and was stopped. The driver of the car stopped the same about 15-20 yards behind the Naka and tried to turn backwards creating suspicion, on which the police officials encircled the car and rounded up the persons sitting inside the car. The same was occupied by a Hindu person and

a lady was sitting by his side on the co-passenger seat. The driver told his name as Ajit Singh @ Pamma son of Harbans Singh while the lady told her name as Sarabjit Kaur wife of Paramjit Singh @ Pamma. Upon offer being made in terms of Section 15 of the NDPS Act, the accused-petitioner herein exercised the option of being searched by some Gazetted Officer, on which the S.P., Special Task Force, Ludhiana was called to reach on the spot. After the Gazetted Officer reached there, the offer was made again and search of the accused persons as well as vehicle was conducted. From the search of the car, a black colour heavy plastic envelope was recovered from a box between the front seat of the car and under the foot rest which was opened and found containing heroin. A total quantity of 8 K.G. of heroin was eventually recovered from the car. The accused persons were taken into custody and are facing trial.

3. An application for release of the vehicle had been moved by the petitioner in this revision petition and it had been contended that he is the registered owner of the vehicle in question and that no order of confiscation of the vehicle in question has been passed by any competent person. Hence, the vehicle in question ought to be released in his favour. He claims that non-release of the vehicle in his favour shall only turn it into junk by the time the case is decided.

4. The prayer of the petitioner is opposed by the State Counsel and it has been argued that heavy quantity of 8 KG of Heroin was recovered from the vehicle. If released, the vehicle is again likely to be deployed for such activities. It is further submitted that merely because the petitioner is a registered owner, it does not give any right to claim superdari of the vehicle.

5. That the claim petition is based upon the Registration Certificate of the vehicle which shows the petitioner to be the registered owner of the vehicle in question. However, during the course of investigation of the case, at the time of filing of the final report under Section 173 of the Code of Criminal Procedure, there is a copy of an affidavit of accused Sarabjit Kaur to the effect that she has purchased the vehicle in question and even a statement of Inderjeet Singh (petitioner herein) had been recorded and appended along with the final report filed under Section 173 Cr.P.C., wherein the petitioner had also reiterated that he had sold the said vehicle to Sarabjit Kaur wife of Paramjit Singh for a sum of Rs. 10,25,000/-. It is thus evident that the petitioner having sold the vehicle in question, is no more entitled to claim release of the same by presenting himself as the ostensible owner thereof. Furthermore, submission has been made that a heavy quantity of contraband i.e. 8 K.G. of heroin has been recovered and there is every possibility that the vehicle in question is likely to be deployed for commission of other offences.

6. I have heard learned counsel appearing for the respective parties and have gone through the facts of the case and the proceedings as well as the appended documents with their able assistance.

7. The petitioner cannot be allowed to approbate and reprobate. While the petitioner claimed to have sold the vehicle in favour of Sarabjit Kaur during the course of investigation of the criminal case and has got recorded his statement which is part of the final report, he cannot, at the same time, stake claim of ownership over the vehicle in question. The surviving claim, if any, on the part of the petitioner is to claim the balance

sale consideration from the purchaser and the said claim does not extend to claim title and ownership of the said vehicle which is involved in commission of a criminal offence. Needless to mention that heavy quantity of 8 K.G. of Heroin having been recovered, the act of the petitioner in claiming ownership and releasing it on sapurdari, despite having no title over the same as per his own statement, is only likely to instigate the petitioner to use the vehicle in commission of any other such offence.

8. The petitioner has placed reliance upon the judgment of ***Tej Singh Vs. State of Haryana reported as 2020(2) R.C.R. (Criminal)*** to contend that if a vehicle in question is retained on the ground of case property being liable to confiscation and kept in the Police Station, the same is likely to be converted into junk. Any public auction of the said vehicle is not likely to fetch a good price and on non-release of the vehicle on sapurdari before passing of the final order for confiscation of the car may itself render the vehicle unserviceable and complete junk. It was directed to release the vehicle on sapurdari to the registered owner. The said judgment would not be applicable to the facts of the present case inasmuch as there was no dispute with respect to the ownership of the vehicle in the said case. The vehicle in question was used by brother of the petitioner and he never claimed to be the owner and the petitioner being owner had submitted application for release of the said vehicle. Per contra, the instant case does not dispute that the owner himself has got recorded his statement to the effect that he had sold the vehicle in question and such a statement in corroboration was also made by the subsequent purchaser who is the accused.

9. Hence, even though, the petitioner is a registered owner under the Motor Vehicles Act, however, he specifically claimed during investigation that he had relinquished his ownership rights in favour of the accused. The petitioner cannot be allowed to approbate and reprobate at the same time. Having denied his title and claim of ownership in the present criminal case itself, he cannot be allowed to claim title over the property and such release thereof in his favour at the same time. The reliance of the petitioner on a certificate of Car Club of Moga does not inspire confidence and is seemingly a procured document. Firstly, the sale consideration in the said document is different from the consideration claimed by petitioner during investigation. The certificate shows sale price of Rs. 11.70 lakh whereas in the statement it was claimed as Rs. 10.25 lakh. Secondly, the certificate was issued in December 2016 while the case was registered in April 2017, when petitioner did not claim his title over the vehicle. Besides, there is a reference that some bank loan was to be repaid and has not been recovered by accused. Fourthly, there was no bank loan but a hypothecation to *Magma Fincorp Ltd.* and if there is a default, it does not give title to petitioner to claim vehicle; it gives a right to the financiers to claim the same. The petitioner has received his part of the differential amount against the value of the property. The said right once claimed by petitioner to have extinguished cannot be revived for seeking release of the vehicle.

9. Thus, the present petition is thus devoid of any merit. The petitioner having received the sale consideration of Rs.10,25,000/- from Sarabjit Kaur wife of Paramjit Singh, accused in present FIR, has no subsisting right and transfer of the registered ownership was a remnant

formality. The instant revision petition, thus, deserves to be dismissed.

Dismissed.

19.04.2022

Ajay Goswami

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No