

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

227

CRR-1328-2021

Date of Decision : 06.12.2022

Narinder Singh @ Ninder

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Mr. H.S. Dhindsa, Advocate for the petitioner.

Mr. Jaspal Singh Guru,
Assistant Advocate General, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present revision challenging the order dated 25.08.2021, passed by the trial Court, whereby his application for releasing the motorcycle make Bajaj Platina 110 bearing registration No. PB-43-E-8810 on Sapurdari, was dismissed, in a case arising out of FIR No. 129 dated 22.06.2021 registered under Section 21 of the NDPS Act, at Police Station Samrala, Ludhiana.

Briefly stated, the petitioner was apprehended with 20 grams of smack along with drug money of Rs.40,000/- i.e. 20 currency notes of Rs.2000/- each, while driving his aforesaid motorcycle. The above-said FIR was registered against the petitioner and contraband along with sample seized from his possession as well as the aforesaid motorcycle was taken into possession by the police. The petitioner, being registered owner of the above said motorcycle, filed application for its release on Sapurdari which was dismissed by learned Judge, Special Court, Ludhiana, vide impugned order dated 25.08.2021.

Learned Counsel for the petitioner has submitted that the

petitioner was falsely implicated in the case under the NDPS Act. The petitioner was granted regular bail vide order dated 22.07.2021 (Annexure P-2) passed by learned Additional Sessions Judge, Ludhiana. The petitioner is the registered owner of the motorcycle in question. There is no provision under the NDPS Act debarring the release of the vehicle on sapurdari. Therefore, the instant revision petition may be allowed, the impugned order may be set aside and the motorcycle in question may be ordered to be released on sapurdari.

On the other hand, learned State Counsel has argued that the motorcycle in question was used by the petitioner for carrying narcotic substance and being liable to confiscation cannot be ordered to be released on sapurdari. However, on instructions he submits that the motorcycle in question is not involved in any other criminal case.

I have heard learned Counsel for the parties and gone through the record.

In ***CRR No.1765 of 2015 titled as Gurbinder Singh @ Shinder Vs. State of Punjab decided on 19.09.2016*** Hon'ble Division Bench of this Court observed as under:-

“21. 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 not 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 well. 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.

22. In the above facts and circumstances, we hold that the

vehicle used for transporting the narcotic drugs and psychotropic substances can also be released on sapurdari invoking the provision under Section 451 Cr.P.C. The reference is answered accordingly.”

Undisputedly, the trial in the aforesaid case is still pending before the trial Court. At present, the vehicle is standing in the police station. No useful purpose will be served, if it is allowed to remain in the police station and it will also result into damage to its condition.

Accordingly, the revision petition is allowed. Impugned order dated 25.08.2021 passed by learned Judge, Special Court, Ludhiana, is set aside and the motorcycle in question is ordered to be released on sapurdari to the petitioner on his executing indemnity bond to the satisfaction of trial Court, with one surety in the like amount and the undertaking to the effect that as and when the trial Court requires the abovesaid motorcycle, the petitioner will produce the same in the same condition at his own cost before the concerned Court. He shall also furnish undertaking to the effect that in future, he will not allow his aforesaid vehicle to be used for such an offence. Trial Court will also be at liberty to impose other conditions as may deem fit.

06.12.2022
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(ASHOK KUMAR VERMA)
JUDGE

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