

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

245

**CRM-M-39624-2019
Date of Decision : 31.08.2022**

Jasvir Singh @ Jassi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Mr. Davinder Lubana, Advocate
for the petitioner.

Mr. Vinay Kumar Gupta, Asstt. A.G., Punjab
for respondent No.1-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing of order dated 27.05.2019 (Annexure P-5) passed by learned Judge, Special Court, Fatehgarh Sahib in case FIR No.15 dated 07.04.2019 registered under Sections 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") in Police Station Kheri Nodh Singh, District Fatehgarh Sahib whereby the application for release the truck bearing registration No.Pb-65-AS-6571 on Sapurdari was dismissed.

Briefly stated, the facts giving rise to the filing of the present petition are that on 07.04.2019 police party headed by ASI Netar Singh was on patrolling duty. At about 12:10 p.m. when they were present in the main road which comes from Khanna to Kheri Nodh Singh, they saw one truck bearing registration No.PB-65-AS-6571 without its body coming from the side of Khanna. On seeking the

police party, the driver (the petitioner) of the truck accompanied with one more person tried to ran away but the police party apprehended both of them. On search 15 kgs. of poppy husk was recovered from them. The above-said FIR was registered against the accused who were arrested and contraband along with sample seized from their possession as well as the truck were taken into possession by the police. The petitioner, being registered owner of the above said truck, filed application for its release on Sapurdari which was dismissed by learned Judge, Special Court, Fatehgarh Sahib vide impugned order dated 27.05.2019.

Status report by way of affidavit dated 10.01.2020 of Sh.Dharam Pal, PPS, DSP, Circle Khamanon, District Fatehgarh Sahib on behalf of the respondent-State has been filed in the Registry which is taken on record.

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 14.05.2019 passed by learned Judge, Special Court, Fatehgarh Sahib. He is not involved in any other case. The petitioner is the registered owner of the truck in question. There is no provision under the NDPS Act debarring the release of the vehicle on sapurdari. The learned trial Court has wrongly dismissed the application of the petitioner. The impugned order suffers from material illegality. Therefore, the petition may be allowed, the impugned order may be set aside and the truck in question may be ordered to be released on sapurdari.

On the other hand, learned State Counsel has argued that

the truck in question was used by the petitioner for carrying narcotic substance and being liable to confiscation cannot be ordered to be released on sapurdari. The impugned order does not suffer from any illegality. Therefore, the petition may be dismissed.

I have heard learned Counsel for the petitioner and learned State Counsel 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 petition is allowed. Impugned order dated 27.05.2019 passed by learned Judge, Special Court, Fatehgarh Sahib, is

set aside and the truck 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 truck, 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.

31.08.2022
Kothiyal

(ASHOK KUMAR VERMA)
JUDGE

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