

CRM-M-17467-2023
Decided on : 20.09.2023

Versus

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

1. The petitioner is praying for quashing of order dated 16.12.2022 (Annexure P-3) passed by Addl. Session Judge, Gurugram in FIR No.191 dated 05.07.2021 under Section 20(b)(ii)(B)-61 and 29 of NDPS Act vide which application for release of vehicle i.e. Swift Dezire Car (hereinafter referred to as 'vehicle') on superdari was dismissed.
2. Learned counsel *inter alia* submits that the petitioner is the owner of the vehicle in question from which the recovery of contraband was allegedly effected. The vehicle had been borrowed by the accused persons on the pretext that they had some urgent work. Prior thereto, the vehicle had never been involved in any illegal activities and the petitioner was neither named as an accused nor challaned in the FIR in question. The vehicle has been lying parked in the open in the police station ever since the registration of the case in hand and its condition thus,

deteriorated considerably. The petitioner is ready to furnish security for the release of vehicle in question on superdari and also ready to give an undertaking to abide by any conditions, which may be imposed by this Court. In support of his submissions, learned counsel has placed reliance on the judgment of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai vs. State of Gujarat, 2003 (1) RCR (Crl.) 380*** and the judgment of Division Bench of this Court in ***Gurbinder Singh @ Shinder vs. State of Punjab, 2016 (4) RCR (Crl.) 492*** wherein it has been held 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.PC.

3. Learned State counsel, on the other hand, on instructions has submitted that though the vehicle is not required by the investigating agency, however, the vehicle is liable to be confiscated under the NDPS Act. It has not been disputed on further instructions by learned State counsel that the petitioner was not challaned by the police in the instant case and he has clean antecedents.

4. Heard learned counsel for the parties and perused the relevant material available on record.

5. Admittedly and as conceded by learned State counsel on instructions, the vehicle in question is no longer required by the investigating agency. Thus, keeping the vehicle in question in police custody would serve no useful purpose. The vehicle used for transporting the narcotic drugs and psychotropic substances can be released on

sapurdari by invoking the provisions under [Section 451](#) Cr.P.C. Hence, the vehicle i.e. Swift Dezire Car, is ordered to be released on superdari to the petitioner on furnishing either cash deposit of Rs.4 lakhs with State or by furnishing Bank Guarantee in equal sum within a period of 10 days from the date of receipt of the certified copy of the order subject to the conditions that the petitioner shall not sell, alienate or mortgaged the vehicle in question. Further, he shall not change its colour and nature and produce the same before the trial Court, as and when required.

6. The present petition stands disposed of in the above terms.

(MANJARI NEHRU KAUL)
JUDGE

20.09.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No