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

CRR-818-2021 (O&M)

Date of Decision: 08.08.2023

Union of India, Dept. of NCB

.....Petitioner

Versus

Dalwinder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajiv Sharma, Advocate
for the petitioner.

Mr. Yashpal Thakur, Advocate for
Mr. S.S. Rana, Advocate for the respondent.

ARUN MONGA, J. (ORAL)

Petition herein is against an order dated 27.07.2021 passed by learned Judge, Special Court, Rupnagar, whereby learned Court below ordered for the release of Hyundai i-20 Asta CRDI car bearing registration No. PB-11-CP-4137, Model 2018, on *Superdari* in favour of respondent.

2. Learned counsel for the petitioner submits that the vehicle involved in the transportation of narcotics has wrongly been ordered to be released on *Superdari* notwithstanding, that at the relevant time, investigation was still underway. Vehicle was required to be inspected to find out as to how and where the narcotics had been stored therein. Thus, the impugned order is liable to be set aside.

3. I have heard learned counsel for petitioner and have perused the file.

4. Order dated 27.07.2021, passed by learned Judge, Special Court, Rupnagar, assailed herein, is premised, *inter alia*, on the following reasoning:-

“ *It is not disputed that the car in question has been in the custody of respondent/Department till date, although, in its reply dated 16.07.2021, a plea was taken that car was required for mechanical examination regarding certain alleged cavity. However, no more argument on this raised today, apart from the contention*

that the vehicle in question cannot be released as it has been seized under the provisions of Section 60(3) and Section 63 of the Act. There cannot be any ambiguity that arrangement of sapurdari is meant for the preservation of the property which could be subjected to unnecessary decay and damage of the property due to periodical disuse. There is no justification for detaining the vehicle in question in police custody till the disposal of the case. Rather doing so will put the machinery/vehicle to more damage and decay.

*Moreover, the Hon'ble Punjab and Haryana High Court in case titled as **Gurbinder Singh alias Shinder vs. State of Punjab 2016(4) RCR (Criminal) 492** has held that a vehicle seized under the NDPS Act can be released on sapurdari under Section 451 Cr.P.C., as neither the State nor the owner of the vehicle would stand to benefit if the vehicle remained parked in the premises of the police station. Even in another landmark judgment titled as **Sunderbhai Ambalal Desai Vs. State of Gujarat 2003(1) RCR (Criminal) 380** the Hon'ble Apex Court took serious note of the fact that a large number of seized vehicles and articles were kept in the police station totally unattended. Finding that there was no use to keep such seized vehicles at the police station for a long period, the Hon'ble Supreme Court directed to Judicial Magistrate to exercise the powers under Section 451 Cr. P.C. expeditiously and judiciously and entrust interim custody of articles and vehicles seized to the owner of the property or to the person who is entitled to be in possession of the property. The Hon'ble Supreme Court also made an observation that if the powers under Section 451 Cr.P.C. are judiciously exercised, the owner of the property would not suffer because of its remaining unused or by its misappropriation. Further, the Court or the police would not be required to keep the articles in safe custody. If proper panchnama before handing over the possession of the article is prepared, that can be used in evidence instead of its production of article before the Court during trial.*

As an upshot of the discussion above, there is no merit in the contention of the ld. SPP, resultantly, the application is allowed and above said i20 Asta CRDI bearing registration No. PB-11-CP-4137 Chasis No.MALBM51RLJM579568 Engine NO. D4FCJM637714 model 2018 is ordered to be released on sapurdari in favour of applicant Dalwinder Singh so of Harmail Singh subject to production of valid insurance document/policy and on his furnishing sapurdari bonds in the sum of Rs.12,00,000/- with one surety in the like amount to the satisfaction of Illaqa/Duty Magistrate, with following undertaking that:-

- 1. That the vehicle shall be produced in the Court during evidence on each and every date as directed by the Trial Court.*
- 2. The applicant shall not change the appearance or colour of the vehicle nor shall cause any alteration which would affect the appearance of the property.*
- 3. He shall produce the vehicle before the Court, if ultimately the court finds that it is liable to be confiscated.*
- 4. Vehicle shall not be sold during trial."*

5. A perusal of above leaves no manner of doubt that the requirement and apprehension of the petitioner to produce the car, if and whenever warranted, have already been well taken care of and well allayed. There is no irregularity of

any kind, committed by the learned court below, deserving indulgence of this court.

6. Impugned order is based on valid and sound reasons recorded by learned Court below, with which I am in agreement. There is thus no room for interference therein. Revision lacks any merit and same is hereby dismissed.

7. Pending application(s) b, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

AUGUST 08, 2023
Harish Kumar

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