

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

CRM-M-38079-2021

Date of Decision: 09.05.2023

NARINDER SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.S.Sarwara, Advocate for
Ms. Rajvinder Kaur, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. A.G. Punjab.

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VIVEK PURI, J. (ORAL)

1. The present revision has been preferred against the order dated 05.08.2021 passed by the Court of learned Addl. Sessions Judge, Rupnagar vide which the application for release of vehicle on sapurdari has been declined.

2. Learned counsel for the petitioner contends that an FIR bearing No.66 dated 02.07.2021 under Section 15 of Narcotic Drugs and Psychotropic Substances Act (for short 'Act') has been registered in pursuance of recovery of 51 kg of poppy husk in the truck bearing registration No. PB-65-AT-2368 against Gurteg Singh and Gurtej Singh. The petitioner is the registered owner of the aforesaid truck wherein the contraband was being carried and becomes entitled to get the vehicle released on sapurdari.

3. Learned State counsel has opposed the prayer made by the petitioner on the score that the vehicle was being used to carry commercial

quantity of contraband and such like offences cannot be viewed lightly. The vehicle was being used in carrying the contraband and is liable to be confiscated as per the provisions of Section 60(3) of the Act. It has been further submitted that by virtue of the impugned order, the prayer for release of the vehicle on sapurdari was declined at that stage on the ground that the challan was yet to be presented and it was yet to be determined as to whether the owner of the vehicle was in connivance with the accused. It has been submitted that though the challan has been presented but no application for release of the vehicle on sapurdari has been moved before the learned trial Court at a subsequent stage.

4. The copy of the Registration Certificate, Annexure P-2 indicates that the petitioner is the registered owner of the aforesaid vehicle. Merely because the release of the vehicle on sapurdari was declined as the case was still at the stage of investigation, may not be termed to be a sufficient ground to relegate the petitioner to again approach the trial Court seeking release of vehicle on sapurdari. It shall not be out of place to mention here that the vehicle was taken into possession as back as on 02.07.2021 and any further delay in release of the vehicle on sapurdari will result in further deterioration in value and condition of the vehicle. There is nothing on record to indicate that the petitioner is involved in any other case under the Act or at any other occasion the vehicle in question was used transport any contraband. It has also not been disputed that the petitioner has not been arraigned as an accused in the instant case.

5. In **2020(4) RCR (CrL) 574, Jagdev Singh vs. State of Punjab**, it has been observed as follows:

“In the aforesaid authoritative pronouncement, there

cannot be any bar to decline the release of the vehicle on sapurdari in a case under the Act. Moreover, the condition of the vehicle is likely to deteriorate while in custody on account of non-user thereof. The aspect of confiscation of the vehicle can be looked at the appropriate stage but it cannot be termed to be a circumstance to deny the release of vehicle on sapurdari.”

6. In these set of circumstances, merely on the score that the vehicle is liable to be confiscated cannot be termed to be a ground to decline the release of vehicle on sapurdari during the pendency of the trial. The investigation of the case is complete and challan has been presented. The conclusion of trial is likely to take some time. Consequently, the declining of the release of the vehicle on sapurdari at this stage cannot be termed to be justified.

7. For the aforesaid reasons, finding sufficient merit in the revision petition, the same is accepted and the impugned order dated 05.08.2021 is set aside. The aforesaid vehicle is ordered to be released on sapurdari to the petitioner on furnishing sapurdari bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

8. The petition is allowed.

09.05.2023

Janki

(VIVEK PURI)
JUDGE

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