

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

CRR-1616-2022

Date of decision : 20.02.2023

Manorathvir Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court impugning the order dated 20.07.2022 passed by learned Judge, Special Court, Gurdaspur vide which application for release of White Coloured Fortuner Car bearing registration No.HR-29-AG-9200 on *superdari* in a case bearing FIR No.75 dated 15.06.2022, under Sections 18/29/61/85 of NDPS Act and Sections 27-61-85 of NDPS Act added vide Rapat No.24 dated 18.06.2022, registered at Police Station Sadar Gurdaspur has been declined.

As per case of prosecution, the vehicle in question is involved in abovesaid FIR. The prosecution case is that on 14.06.2022, police party stopped the white coloured Fortuner Car No.HR-29AG-9200 coming from Batala side and going towards Pathankot side which was being driven by the petitioner and there was another person sitting on co-driver's seat. On checking of the vehicle, a black coloured polythene bag was found in the dashboard and on opening, it was found containing sealed packets of opium, weight of which was found to be 250 grams. The vehicle was taken into custody and the accused were arrested.

Learned counsel for the petitioner has stated that the petitioner is the registered owner of the Fortuner Car in question which is lying parked in the premises of the police station and is reducing into junk day-by-day with the passage of time. He has further submitted that the trial of the case will take sufficient long time and no purpose will be served by keeping the vehicle in police custody for such a long time. He has stated that learned Judge, Special Court while passing the impugned order has wrongly held that there is every possibility of the use of the vehicle in question for transporting the intoxicating material which will lead to violation of the provisions of NDPS Act. He has wrongly ignored the no objection raised by the police for the release of vehicle and has held that the police is hand in gloves with the petitioner. He has further submitted that the petitioner is ready to abide by all the conditions imposed by the Court while ordering the release of said vehicle on *superdari*. He has relied upon the order passed by this Court in CRR-1765-2015 titled as Gurbinder Singh @ Shinder Vs. State of Punjab decided on 19.09.2016 wherein it has been held that the vehicle can be released on *superdari* and further, neither the State nor the owner of the vehicle would be benefited if the vehicle remained parked in the premises of the police station. He has prayed for setting aside the order dated 20.07.2022 and for releasing the said vehicle on *superdari*.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has filed the short reply by way of an affidavit of Dr. Riputapan Singh, PPS, Deputy Superintendent of Police, City, District Gurdaspur. He submits that the said car is involved in a heinous offence and the recovery of 250 grams opium was effected from the dashboard of the car and as per Section 63 of the Act, the vehicle

involved in the offence is to be confiscated to the State and thus, there is no infirmity in the impugned order.

Heard. There is no denial to the fact that as per prosecution, the said vehicle was involved in the alleged offence and the recovery has been effected from the same. The petitioner who is the registered owner of the car wants to release the same on *superdari* in his favor and he is ready to abide by any conditions imposed by the Court while ordering release of the said vehicle on *superdari*. In Gurbinder Singh @ Shinder's case (supra), in the similar circumstances, this Court has dealt with the issue involved therein and allowed the release of vehicle on *superdari*. The trial of the case will take sufficient long time and no purpose will be served by keeping the vehicle parked in the police station which is converting into junk with the passage of time. No doubt Section 452 Cr.P.C. speaks of disposal of seized property after enquiry or trial in a criminal Court is concluded but in the present case trial is to take sufficient long time for its conclusion and no useful purpose will be served by keeping the vehicle in police station.

Keeping in view the facts and circumstances of the case, the impugned order dated 20.07.2022 is *set aside* and the car in question is ordered to be released to the petitioner on *superdari* to the satisfaction of the trial Court which will be free to impose any condition it finds necessary in the fitness of the circumstances. The State would be at liberty to avail its remedy in case the petitioner is found to have violated any of the conditions of *superdari*. Accordingly, petition stands allowed.

20.02.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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