

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-38260-2022

Date of Decision: 20.02.2023

Mohammad Mehtab

.... Petitioner

Versus

Sate of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. K.S. Siwach, Advocate for the petitioner.

Mr. G.S. Dhillon, AAG, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has challenged the order dated 17.05.2022 (Annexure P-1) passed by Judicial Magistrate Ist Class, Hisar, whereby his application for release of the vehicle i.e truck bearing registration No. UP-12-T-7421 on superdari was dismissed, as well as order dated 06.07.2022 (Annexure P-3) passed by the learned Additional Sessions Judge, Hisar, whereby revision there against has also been dismissed.

Learned counsel for the petitioner submits that FIR No. 206 dated 24.02.2022 for the offences punishable under Section 11 of the Animal Cruelty Act, Section 13(i)(ii) of Haryana Gauvansh Sanrakshan and Gaursamvardhan Act, 2015 and Sections 279, 336 and 429 IPC at Police Station Barwala, was registered against accused Amjad and Ahsan. The vehicle/truck bearing registration No. UP-12-T-7421, was taken into possession during investigation. The vehicle/truck is lying in the police station in a open place for the last more than 05 months and with the

passage of time, the same will be reduced into a junk. Counsel for the petitioner submits that petitioner is the registered owner of the vehicle/truck in question and prays that the same be released on *Superdari*. In support of his contentions, counsel for the petitioner has relied upon an order dated 08.08.2017 (Annexure P-4) passed by a co-ordinate Bench of this Court in ***CRM-M-28724-2017, Harpal Singh Vs. State of Haryana***, where the following observations have been made:-

“Learned counsel for the petitioner contends that Amendment of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (hereinafter referred to as “the Act”), is in process and in a similar case, a co-ordinate Bench of this Court by the order dated 16.01.2017 passed in CRM No. M- 37389 of 2016 titled as “Isran v. State of Haryana” had also directed the release of vehicle of the petitioner therein subject to the satisfaction of trial Court.

In support of his submissions, he has also placed reliance upon the judgment of Division Bench of this Court in the case of “Mainpal v. State of Haryana and others” CWP No.19153 of 2016 decided on 30.05.2017.

Learned State counsel does not controvert the submissions made by learned counsel for the petitioner and states that the amendment of the Act is under process.

Consequently, the petition is allowed and the impugned orders dated 06.03.2017 (Annexure P-4) and 21.04.2017 (Annexure P-6) are set-aside. The vehicle i.e truck bearing registration No. HR99YV(T)1534 shall be released on superdari subject to the satisfaction of trial Court/Duty Magistrate.”

Similar order has been passed by a co-ordinate Bench of this

Court in ***CRR-4013-2017, Mohamad Salman Vs. State of Haryana***, in which vide order dated 14.11.2017 (Annexure P-5), vehicle was ordered to be released on *Superdari*.

Learned State counsel has not disputed the abovesaid factual position.

Consequently, the petition is allowed and the impugned orders dated 17.05.2022 (Annexure P-1) and 06.07.2022 (Annexure P-3) are set-aside. The vehicle i.e. truck bearing registration No. UP-12-T-7421 shall be released on *Superdari* subject to the satisfaction of trial Court/Duty Magistrate.

20.02.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**