

**117+258 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-43619-2021 (O&M)

Decided on:-23.03.2023

Sukhchain Singh (through Special Power of Attorney)

....Petitioner..

VS.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. D.S. Kahlon, Advocate
for the petitioner.

Mr. Vinjay Kumar Gupta, AAG, Punjab.

HARKESH MANUJA J.

CRM-13764-2023

Application is allowed as prayed for. Registration certificate of the vehicle i.e. Car Hyundai I-20 bearing No.PB02BE0749 is taken on record. Be tagged at appropriate place.

Main case

The prayer in the present petition under Section 482 read with Section 451 Cr.P.C. is for quashing/setting aside the order dated 06.08.2021 passed by the Additional Sessions Judge, Amritsar, whereby an application filed at the instance of petitioner (through Special Power of Attorney) for releasing the vehicles i.e. Car Hyundai I-20 bearing registration No.PB-02-BE-0749 and motorcycle Hero Honda Splendor Plus bearing registration No.PB-14-C-0174 on Superdari, was dismissed.

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2. The brief facts of the case are that FIR No.29 dated 24.02.2021, under Section 21, 22, 25, 27-A, 29 of NDPS Act, 1985, Section 25/27 of the Arms Act, Section 3 of Passport Act, 1920 and Section 14 of Foreigners Act, 1946, at Police Station Lapoke, Amritsar Rural, came to be registered against Mehal Singh, Jarnail Singh, Gurjant Singh, Tehal Singh and brother of the petitioner, namely, Sukhjinder Singh, on the allegations that aforementioned persons were having relations with Pakistan's smugglers and were doing the business of heroin and illegal ammunition/arms through the border of India-Pakistan.

3. Pursuant to the registration of the aforementioned FIR, the local police confiscated vehicle Car Hyundai I-20 bearing registration No.PB-02-BE-0749 and motorcycle Hero Honda Splendor Plus bearing registration No.PB-14-C-0174. Aggrieved thereof, the petitioner moved an application through his attorney for releasing of the aforementioned vehicles on Superdari before the court of learned Additional Sessions Judge, Amritsar, which came to be dismissed vide order dated 06.08.2021, on the ground that the arrest of the remaining three accused was yet to be effected.

4. Aggrieved against the aforesaid order dated 06.08.2021, the petitioner (through special power of attorney, namely, Pawan Kaur w/o of petitioner) filed the present petition before this Court.

5. Learned counsel for the petitioner contends that the investigation in the present case already stands concluded with the filing of challan followed by framing of charges, however, no witness has been examined so far. He further submits that though the abovementioned vehicles were registered on the name of petitioner, but he has nothing to do

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with the alleged crime as he is residing in Dubai. He further submits that due to attachment of vehicles in the aforementioned case, the petitioner and his family members were facing difficulties in their daily routine life and even conditions of their vehicles was deteriorating day-by day. Learned counsel also submits that the petitioner would neither change the colour of the aforesaid vehicles nor sell it during the pendency of trial and would produce those, as and when required.

6. Learned State counsel on the other hand submits that since the vehicles in question were being used in the smuggling of drugs/illegal ammunition from Pakistan, thus needs to be confiscated and therefore, the petitioner was having no right to get those released on superdari.

7. I have heard learned counsel for the parties and find merits in the submissions made on behalf of the petitioner

8. Considering the fact that the vehicles lying unattended in the police Station/yard, the condition is definitely deteriorating day-by-day and those would be reduced into junk and thus, no useful purpose is going to be served by keeping the said vehicles there. Even otherwise, from the written reply submitted by the respondents, it can also be traced out that no contraband was recovered from either of the vehicles in question, except some cash from the car which was lying parked in the house of the accused which thus makes the attachment debatable and shall be gone into during trial.

9. Accordingly, the present petition is allowed and the vehicles in question i.e. Car Hyundai I-20 bearing registration No.PB-02-BE-0749 and motorcycle Hero Honda Splendor Plus bearing registration No.PB-14-C-

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0174 are ordered to be released on superdari, on furnishing indemnity bonds/surety bonds by the petitioner to the satisfaction of the concerned i.e. the learned Chief Judicial Magistrate/Duty Magistrate, Amritsar.

10. The petitioner shall also submit an undertaking that the vehicles in question shall not be put to any illegal use in future and those would be produced as and when directed. Further, the petitioner shall not sell, transfer or alter the physical condition of the vehicles in any manner.

11. The petition is thus allowed in the aforesaid terms, resultantly, the impugned order dated 06.08.2021 passed by the court of learned Additional District Judge, Amritsar is set aside.

23.03.2023
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(HARKESH MANUJA)
JUDGE

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