

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

CRR-1698-2021

Date of Decision: 23.02.2023

HARDIAL SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Raman Kumar, Advocate for
Mr. Rajiv K. Kapila, Advocate for the petitioner.

Mr. M.S.Nagra, AAG Punjab.

* * *

VIVEK PURI, J. (ORAL)

The present revision has been preferred against the order dated 13.09.2021 passed by the learned Special Court, Hoshiarpur vide which the application for release of vehicle on superdari has been declined.

Learned counsel for the petitioner contends that an FIR bearing No.47 dated 01.04.2021 under Section 21 of Narcotic Drugs and Psychotropic Substances Act (for short 'Act') has been registered at Police Station Haryana, District Hoshiarpur as the son of the petitioner was found to be carrying 20 gms of heroin. Besides, Gagandeep Singh, co-accused was also travelling therein and he was found in possession of 30 gms of heroin. The petitioner is the registered owner of white *i20* car bearing registration No. PB-07-BU-5588 wherein the contraband was being carried and becomes entitled to get the vehicle released on superdari.

Learned State counsel has opposed the prayer made by the petitioner on the score that the drug menace has attained alarming heights

and such like offences cannot be viewed lightly and the vehicle being used in carrying the contraband is liable to be confiscated as per the provisions of Section 60(3) of the Act.

Learned counsel for the petitioner has placed on record the copy of the Certificate of Registration to indicate that the petitioner is the registered owner of the aforesaid vehicle. The application for release of the vehicle on superdari has been declined only on the basis of the report submitted by the officer-in-charge of the Police Station that there are chances that the vehicle may be re-used for carrying intoxicants in the event the same is released on superdari. The perusal of the impugned order also indicates that as per the report, it has not been disputed that the petitioner is the registered owner of the vehicle.

On a query, it has been submitted by the learned State counsel that there is nothing to indicate that the petitioner is involved in any case under the Act or at any other occasion the vehicle in question was being used to transport any contraband. 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.”

As such, merely on the score that the vehicle is liable to be confiscated cannot be termed to be a ground to release the vehicle on superdari during the pendency of the trial. It has also not been disputed that the petitioner has not been arraigned as an accused in the aforesaid FIR.

The report made by the Officer-in-charge of the Police Station to the effect that the vehicle in question can be re-used for carrying intoxicating substance is not based upon any material to indicate and suggest the same. Consequently, the declining of the release of the vehicle on superdari on the basis of such report cannot be termed to be justified.

For the aforesaid reasons, finding sufficient merit in the revision petition, the same is accepted and the impugned order dated 13.09.2021 is set aside. The aforesaid vehicle is ordered to be released on superdari to the petitioner on furnishing superdari bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

23.02.2023

Janki

**(VIVEK PURI)
JUDGE**

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