

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-1742-2021(O&M)

Date of Decision:-15.03.2023

Amarpreet Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rishu Mahajan, Advocate for the Petitioner.

Ms. Navreet Kaur Barnala, Assistant Advocate General,
Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The petitioner challenges the order dated 11.08.2021 passed by the Additional Sessions Judge, Amritsar, vide which an application filed by the petitioner for release of his Vehicle i.e. Car bearing Registration No. PB02-DV-5577, on Sapurdari, was declined.

Learned counsel for the petitioner contends that the petitioner is on bail in case bearing FIR No.51 dated 18.05.2021 registered under Sections 22 and 29 of the NDPS Act and Sections 420, 468, 471, 120-B IPC at Police Station Mattewal, District Amritsar. However, the aforesaid vehicle of the petitioner, taken by the police in its possession, is lying parked in the Police Station and, when the petitioner moved the aforesaid application for its release on Sarpudari, the same was declined observing that the petitioner had been using the said vehicle for transportation of drugs

from Delhi to Amritsar.

While referring to the decision of the Division Bench of this Court in **Gurbinder Singh @ Shinder Singh Vs. State of Punjab, 2016(4) RCR (Criminal) 492**, the learned counsel for the petitioner would submit that the impugned order passed by the trial Court is legally not sustainable. It is further submitted that there being no inconsistency in the provisions of Section 451 Cr.P.C. and those of the NDPS Act, the vehicle of the petitioner, deserves to be released on Sapurdari.

On the other hand, while defending the impugned order, the State counsel would submit that the learned Trial Court, has rightly observed that as the vehicle in question was being used for transportation of the drugs, the same if released on Sapurdari, would again be used by the petitioner for the said purpose. He, therefore, submits that no indulgence is required to be granted to the petitioner.

I have heard the learned counsel for the parties.

A perusal of the impugned order would show that the learned trial Court has relied upon the police recommendations not to release the vehicle. The fact, whether or not the vehicle was earlier involved in the similar nature of the crime, is a question, though could be one of the concerns for the investigating agencies, yet the fact remains that the idle parking of the vehicle in the police station would serve no purpose. It is not the case of the police that it required the vehicle for the investigation purposes.

So far as issue regarding the release of the vehicle impounded or taken into possession by the police in an NDPS case is concerned, it stands settled in **Gurbinder Singh @ Shinder's case (supra)**. It was held by

the Division Bench as under:-

“21. In the above facts and circumstances, we have no hesitation to hold that there is no provision under the NDPS Act debarring the release of the vehicle for interim custody. The provision under Section 451 Cr.P.C. which is found no inconsistent with the provisions of the NDPS Act, is applicable to the vehicle seized under the NDPS Act as well. No differential treatment to the vehicle seized under the NDPS Act is contemplated either under the provisions of the NDPS Act or under the ratio laid down by the Court of law. In our considered view, the law laid down by the Hon’ble Supreme Court in Sunderbhai Ambalal Desai’s case (supra) will apply to the vehicles seized under the NDPS Act as wel. Any contrary view taken by the Courts of law would be against the interest of the owner of the vehicles, the public at large and the State.”

In view of the above, the present petition is allowed. The impugned order is set aside and the vehicle of the petitioner is ordered to be released on Sapurdari, subject to the appropriate conditions to be imposed by the trial Court. It is made clear that in case, the petitioner’s vehicle is again found involved in any other crime, then the same may be a ground to not only for the permanent seizure of the said vehicle, but also a ground to recall the order granting regular bail to the petitioner.

(JASJIT SINGH BEDI)
JUDGE

March 15, 2023

Vinay

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