

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-2491-2022 (O&M)
Date of Decision:-28.03.2023

Shamshir Alam Khan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Prashant Bansal, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner-Shamshir Alam Khan has approached this Court challenging order dated 08.9.2022 vide which the learned Sessions Judge, Fatehabad, has dismissed an application moved by the petitioner for release of his vehicle bearing registration No.HR-61A-8000 on *superdari*, which had been taken into possession by the police in connection with FIR No.156, dated 05.04.2021, Police Station City Fatehabad, District Fatehabad, under Sections 420, 467, 468, 471, 201, 120-B IPC (Section 7 of Prevention of Corruption Act added later on).
2. The case of the prosecution, in nutshell, is that the petitioner had got his vehicle i.e. HR-61A-8000 registered with the Registering Authority at Fatehabad, although he is a resident of Bihar. It is the specific case of prosecution that the petitioner was not having any residential proof to establish that he is a resident of Haryana and that it was in an illegal manner

that he got the vehicle registered in Haryana. The petitioner who is being prosecuted in aforesaid FIR moved an application seeking release of vehicle on *supardari*, however, the same was declined vide impugned order dated 08.09.2022. The relevant extract from the said order reads as follows:

“5. Perusal of main case file shows that present case FIR was registered on the basis of application presented by complainant SI Rajesh Kumar in which he alleged that on 05.04.2021, he had received secret information that the registration of vehicles was being done in the office of Sub-Divisional Officer (Civil)/Regional Transport Authority, Fatehabad on the basis of fake documents by using no objection certificates of other authorities in the names of residents of other Districts/States. The report of Motor Inspector regarding passing of vehicles was also not being filed at the time of registration of vehicles. Vehicles bearing registration Nos.HR-61A-8000, HR-31H-9322, HC-02AT-6882, HIR-71H-1744 and HR-88-2310 were registered on the basis of fake documents in the office of Sub-Divisional Officer(Civil), Fatehabad. He visited office of Sub-Divisional Officer (Civil), Fatehabad and obtained photo copies of documents of vehicles No. HR-61A-8000, HR-02AT-6882 and HR-88- 2310 from Ajmer Singh, Motor Registration Clerk and record of remaining two vehicles No. HR-31H-9322 and HR-71H-1744 was found missing. During investigation, Mahindra & Mahindra Scorpio vehicle No HR-61A-8000 and its registration certificate were taken into police possession.

6. Keeping in view the seriousness of offence and the report of police that vehicle No.HR-61A-8000 was registered in name of applicant Shamshir Alam Khan illegally through office of RTA, Fatehabad and said vehicle is blacklisted by the office of RTA, Fatehabad, no ground to release abovesaid Mahindra & Mahindra Scorpio vehicle on *superdari* to applicant is made out and hence, application in hand is hereby dismissed. Papers be tagged with the main case file.”

3. Learned counsel for the petitioner has submitted that it is not the case of the prosecution that vehicle does not belong to the petitioner and at best it is a case where the vehicle has been got registered in a State where it could not have been registered as per prosecution and since, conclusion of trial is likely to consume time, keeping the vehicle stationed will not serve any useful purpose and would rather deteriorate its condition.
4. Opposing the petition, learned State counsel has submitted that since it is a case where the vehicle in question has been got registered by some illegal means in connivance with the officials of the Registering Authority, the petitioner does not deserve to be given the custody of the vehicle, at this stage.
5. This Court has considered the rival submissions.
6. It is no doubt correct that specific allegations have been levelled against the petitioner to the effect that the petitioner being a resident of Bihar, had got the vehicle registered at Fatehabad despite the fact that there was no valid NOC and no valid report of the Motor Vehicle Inspector. However, this Court finds that it is neither the specific case of the petitioner that he is not the owner of the vehicle in question nor any such specific stand has been taken in the reply filed on behalf of the State. Conclusion of trial is likely to consume time inasmuch as only 2 PWs have been examined. Needless to mention, condition of the vehicle in question is likely to deteriorate on account of its disuse and due to vagaries of weather, in case the same is kept parked for long time in open. As such, no useful purpose would be served by detaining the vehicle unnecessarily.

7. The petition, as such, is accepted and the impugned order dated 08.09.2022 is hereby set aside. The application filed by the petitioner for release of his vehicle on *superdari* is hereby accepted. The vehicle in question shall be released to the petitioner subject to his furnishing adequate surety and subject to any such condition as the Trial Court may choose to impose at the time of release of the vehicle in question on *superdari*. It is however, clarified that the petitioner shall use the vehicle in question only after getting the same registered as per the prescribed procedure.

28.03.2023
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No