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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2885-2022

Date of Decision: February 02, 2023

Samay Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Dhruv Gupta, Advocate
for the petitioner.

Mr.B.S.Virk, DAG, Haryana.

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RAJESH BHARDWAJ, J.(ORAL)

Petitioner has approached this Court impugning the order dated 17.11.2022 passed by learned Additional Sessions Judge, District Ambala, whereby the application filed by the petitioner for release of vehicle bearing registration No.PB-11-CM-8500 on Superdari, has been dismissed..

He submits that the vehicle in question is involved in FIR No.327, dated 01.09.2022 registered under Sections 21/27(A) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for brevity,'the Act'), at Police Station Parao Ambala Cantt., District Ambala. He has submitted that as per case of the prosecution, son of the petitioner, namely, Rajbir Singh, was driving the vehicle whereas three persons were also travelling in the same car. On interception of the car, 1 kg heroin was recovered from three accused travelling in the car. All the four persons including the driver Rajbir Singh were arrested and the prosecution is launched against them for the offence under Sections 21/27(A) of the Act.

He submits that the challan has been presented and investigation has already been completed. Counsel for the petitioner has contended that the petitioner, who is father of Rajbir Singh @ Raju, is the registered owner of the vehicle and as per case of the prosecution itself, there is no recovery from the driver. He submits that car in question was being used as a taxi and remaining three accused were travelling in the car as passengers. He submits that son of the petitioner was not aware about the luggage being carried by rest of the three accused but he is also implicated in this case. He has submitted that even from prosecution case, no recovery has been effected from son of the petitioner. He submits that petitioner before this Court is the registered owner and he is not even accused in this FIR. He submits that car involved in the case is the source of livelihood of the petitioner and investigation already stands completed and hence the petitioner filed an application for releasing the car on Superdari but the same has been rejected by the learned Special Court vide impugned order dated 17.11.2022 without appreciating the law settled. He has submitted that retaining the car by the Investigating Agency would adversely affect the petitioner and he will be deprived of his livelihood. He submits that as per the statutory provisions of the Act, there is no specific bar to release the vehicle to the petitioner on Superdari. He has relied upon the law laid down by this Court in **Gurbinder Singh @ Shinder vs State of Punjab** 2016(4) RCR (Criminal) 492, **Rahul Kumar @ Rai vs State of Punjab** 2019(3) Law Herald 2266 and **Mangat Rai vs State of Punjab** passed in CRR-337-2019 on 28.03.2019 and thus has submitted that during pendency of the trial, which may take a long time, car bearing No. PB-11-CM-8500 be released to the petitioner on Superdari, by setting aside the impugned order, dated 17.11.2022.

Learned State counsel has filed the reply. He has opposed the submissions made by counsel for the petitioner. He submits that the car is involved in the offence. All the four accused, including son of the petitioner who was driving the car, were arrested on the spot. He has submitted that there is recovery of 1 kg heroin from three accused, which is commercial quantity. He further submits that in view of the provisions of Section 60(3) of the Act, the vehicle involved in the offence is to be confiscated to the State and thus there is no infirmity in the impugned order.

Heard.

There is no gain-saying that the car, as per case of the prosecution, was involved in the alleged offence. The specific stand taken by the petitioner is that he is the registered owner of the car and his son was driving the same as a taxi. It is also submitted before this Court that this car is the only source of livelihood of the petitioner and the trial would take a long time and thus it would be harsh, in the facts and circumstances of the case if the vehicle is not released on Superdari to the petitioner. In **Gurbinder Singh @ Shinder** (supra), **Rahul Kumar @ Rai** (Supra) and **Mangat Rai** (supra) in the similar circumstances, this Court has dealt with the issue involved herein and allowed the release of vehicle on Superdari.

Keeping in view the facts and circumstances of the present case, this Court finds that even if the car in question is the case property, however, Hon'ble Division Bench of this Court in the case of **Gurbinder Singh @ Shinder** (supra) has held that there is no specific provision debarring the release of vehicle on Superdari. Thus, the impugned order is set aside. The car in question is ordered to be released to the petitioner on Superdari to the satisfaction of the Trial Court. However, State would be at liberty to avail

its remedy in case petitioner is found to be misusing any of the conditions of Superdari.

The Court concerned would be at liberty to impose the conditions on the petitioner, as it deems fit, while releasing the vehicle on Superdari.

Petition stands disposed of accordingly.

February 02, 2023
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |