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

CRM-M-3191-2024

Date of decision: 07.05.2024

Vinod Jaiswal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ankur Bansal, Advocate for the petitioner.

Mr. Inderjeet Singh, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of impugned order dated 19.08.2023 (Annexure P-1) passed by the Court of Ld. Chief Judicial Magistrate, Jalandhar in a criminal case having FIR No.108 dated 20.06.2023 under Section 379, 411 IPC, Police Station Division No.6, Jalandhar and order dated 11.10.2023 (Annexure P-2) passed by the Court of Additional Sessions Judge, Jalandhar whereby the revision petition filed by the petitioner against order dated 19.08.2023 (Annexure P-1) was dismissed.

2. The brief facts of the case are that police recovered one stolen motor cycle No.PB-08-CG-7964 from co-accused Bhupinder Singh son of Piara Singh, Virender Verma and Bhupinder Singh son of Gurdev Singh on 20.06.2023 on the basis of secret information. During investigation, the aforesaid accused suffered disclosure statement that they also committed theft of some other two wheelers including one activa and they used to sell

the stolen vehicles to petitioner Vinod Jaiswal a scrap dealer and later on petitioner was arrested and recovery of Rs.6.20 lacs was effected from his premises by the police.

3. Petitioner filed an application for release of the said cash on superdari. The application was contested by the State. The Court of Chief Judicial Magistrate dismissed the said application vide order Annexure P-1 on the ground that the amount in question being case property, cannot be ordered to release on superdari. The revision petition filed by the petitioner against order Annexure P-1 was also dismissed by the Court of Additional Sessions Judge, Jalandhar vide order Annexure P-2 dated 11.10.2023. Being aggrieved, petitioner has filed the present petition under Section 482 Cr.P.C. to challenge the orders Annexure P-1 and Annexure P-2 respectively.

4. I have heard the counsel for the parties.

5. It appears that no stolen article or two wheeler was recovered from possession of the petitioner who at the relevant time was working as a scrap dealer. Admittedly, cash worth Rs.6.20 lacs was recovered by the police from his premises and the same was seized by police and is presently lying in the malkhana of the police station concerned.

6. The counsel for the petitioner has placed on record various invoices Annexure P-3 to Annexure P-10 in order to show that he earned the said money worth Rs.6.20 lacs by selling scrap. It is further submitted that no stolen article was recovered from possession of the petitioner and as such the aforesaid amount cannot be considered as proceeds of the crime. The counsel for the petitioner further submits that except for the petitioner, no one else has claimed ownership with regard to aforesaid currency notes worth Rs.6.20

lacs. Police also failed to produce any document in order to show that petitioner used to get stolen vehicles from the other accused persons and then to sell them to different persons at higher rates.

7. The counsel for the petitioner submits that at the trial, petitioner would not dispute the fact with regard to recovery of amount of Rs.6.20 lacs from his premises by the police, during investigation of this case.

8. It will take considerable time for the trial to conclude. The petitioner is claiming his exclusive ownership with regard to cash in question.

9. In light of the above, no purpose is going to be served by keeping the aforesaid cash in the police custody. Accordingly, the present petition is allowed and impugned orders Annexure P-1 and Annexure P-2 are set aside. The aforesaid currency notes worth Rs.6.20 lacs are directed to be released to the petitioner after preparing proper inventory with their numbers or denomination. The photographs of the currency notes be also taken and the currency notes are to be released against requisite superdarinama with one surety in like amount to the satisfaction of the learned trial Court. Proper receipt with regard to handing over of custody of the said currency notes be also prepared and kept by the SHO concerned in the record of police station.

10. The present petition is disposed of in aforesaid terms without expressing any opinion on merits of the case.

07.05.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No