

CRR-431-2023 (O & M)

-1-

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

CRR-431-2023 (O & M)

Reserved on 28.08.2024

Pronounced on: 18.09.2024

SATINDER PAL SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Raghav Sharma, Advocate
for the petitioner.

Mr. Maninderjit Singh, Addl. AG, Punjab.

SUDEEPTI SHARMA, J.

1. The present revision petition is filed against the order dated 03.01.2020 passed by learned Special Judge, CBI, SAS Nagar (Mohali) Punjab whereby application filed by the revision-petitioner for releasing the vehicle bearing No.HR-03-K-0056 on "Sapurdari" has been dismissed.
2. The facts as mentioned in the petition are that the vehicle bearing No.HR-03-K-0056 was taken into possession by the Police of Police Station Sadar, Patiala during the investigation. The vehicle is no more required by the local Police for any purpose of investigation. The petitioner is ready to furnish surety bonds to the satisfaction of the Court and to abide by any other condition to be imposed by this Court.



CRR-431-2023 (O & M)

-2-

3. Notice in the application was issued and report of Police Station concerned was also called. The SHO of Police Station Sadar Patiala has reported that as per the Registration Certificate, the said vehicle is registered in the name of Satinder Pal Singh son of Krishan Singh resident of Raipur, District Kurukshetra, (Haryana) but the same was taken into police possession from the custody of Davinder Singh @ Dev.

4. After hearing both the parties, learned Special Judge, CBI dismissed the application filed by the petitioner. Relevant portion of the same is reproduced hereunder:-

“3. A perusal of the file would reveal that when the case was pending at Patiala, an application for release of vehicle Toyota Land Cruiser Prado bearing registration No.HR-03-K-0056 was filed by one Surinder Pal Singh S/o Harbhajan Singh, which was dismissed on 05.06.2014 by the Court of Sh. Rajnish Garg, the then Ld. Additional District Judge, Patiala. A perusal of the order of the said court which is on the judicial file, reveals that in the said application, the applicant Surinder Pal Singh S/o Harbhajan Singh had claimed that Satinder Pal Singh S/o Krishan Singh, the original owner of the vehicle, had sold the vehicle through an affidavit to him and copy of the affidavit of Satinder Pal Singh was placed on the file. The Court opining that since the original affidavit was not produced on the record and the vehicle in question was transferred to



Surinder Pal Singh after registration of the present case and recovery of the vehicle, the version was not believable and the application was accordingly dismissed. After a period of nearly five years the instant application has been filed by Satinder Pal Singh son of Kishan Singh who is said to be the original owner. The present application, when considered in juxtaposition to the earlier application filed five years earlier, would show that Surinder Pal Singh claimed to have purchased the vehicle from Satinder Pal Singh on the strength of an affidavit but when the application was declined, Satinder Pal Singh has come forward with an application to claim the vehicle. Notably, the vehicle was recovered from accused Davinder Singh @ Dev who is facing trial before this Court. This sequence of events as narrated above, reveals that the three persons involved above are trying to scuttle the judicial process and to obtain the custody of the vehicle in one way or the other and there is every apprehension that the vehicle which was recovered from the accused Devinder Singh @ Dev who is facing trial before this court on the allegations of dealing in the business of narcotics and huge quantity of contraband is also alleged to have been recovered from him, would not be produced in the court if required. As stated in the earlier order of 05.06.2014, the vehicle was sold



subsequent to its recovery and involvement in the present case, hence ownership of the vehicle also becomes suspicious.

4. In view of the facts discussed above, the application under consideration is dismissed and the vehicle Toyota Land Cruiser Prado bearing registration No.HR-03-K-0056 cannot be handed over to the applicant on sapurdari.”

5. Learned counsel for the petitioner contended that no contraband was recovered from the vehicle and the present vehicle is involved in lieu of the basis that the same was recovered from the custody of the prime accused.

He further contended that there is no substantial allegations whereby it is established that the present vehicle is needed as a case property.

He further contended that the petitioner is the registered owner of the vehicle i.e. Toyota Land Cruzer Prado bearing registration No.HR-03K-0056. He has placed on record the registration certificate as Annexure P-2, wherein, he is shown to be the registered owner of the aforementioned vehicle.

He further contended that the trial would consume sufficiently long time since large number of witnesses and accused are involved in the case. Therefore, his vehicle which is parked in the Police Station since a long time is regularly deteriorating in its value and usability.

He further contended that he undertakes to produce the vehicle as and when required in the course of the trial.



6. Per contra, learned State counsel argued on the lines of the order dated 03.01.2020 and contended that the same is self speaking. Therefore, there is no merit in the case of the petitioner.

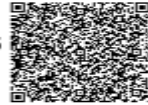
7. We have heard learned counsel for the parties and perused the whole record of this case.

8. The relevant provisions i.e. Sections 60 and 63 of the Narcotic Drugs and Psychotropic Substances Act, 1985 involved in the present case are as under:-

“60. Liability of illicit drugs, substances, plants, articles and conveyances to confiscation.-

1 [(1) Whenever any offence punishable under this Act has been committed, the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.]

(2) Any narcotic drug or psychotropic substance [or controlled substances] lawfully produced, imported inter-State, exported inter-State, imported into India, transported, manufactured, possessed, used, purchased or sold along with, or in addition to, any narcotic drug or psychotropic substance [or controlled substances] which is liable to confiscation under sub-section (1) and the receptacles, packages and coverings in which any narcotic drug or psychotropic substance [or controlled



substances], materials, apparatus or utensils liable to confiscation under sub-section (1) is found, and the other contents, if any, of such receptacles or packages shall likewise be liable to confiscation.

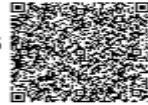
(3) Any animal or conveyance used in carrying any narcotic drug or psychotropic substance [or controlled substances], or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.

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63. Procedure in making confiscations.—

(1) In the trial of offences under this Act, whether the accused is convicted or acquitted or discharged, the court shall decide whether any article or thing seized under this Act is liable to confiscation under section 60 or section 61 or section 62 and, if it decides that the article is so liable, it may order confiscation accordingly.

(2) Where any article or thing seized under this Act appears to be liable to confiscation under section 60 or section 61 or section 62, but the person who committed



the offence in connection therewith is not known or cannot be found, the court may inquire into and decide such liability, and may order confiscation accordingly:

Provided that no order of confiscation of an article or thing shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim: ”

9. Further the relevant provision i.e. Section 451 of the Code of Criminal Procedure, 1973 in the present case is reproduced hereunder:-

“451. Order for custody and disposal of property pending trial in certain cases.—

When any property is produced before any Criminal Court during an inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.— For the purposes of this section, “property” includes—

(a) property of any kind or document which is produced before the Court or which is in its custody;



(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.”

9. A bare perusal of sub-section (3) of Section 60 of the NDPS Act shows that the conveyance in which the prohibited narcotic and psychotropic substances being carried is liable for confiscation with a rider that the owner of the vehicle or conveyance concerned for saving it from confiscation is required to prove that the conveyance concerned used for illegal /illicit purposes, was allegedly used without his knowledge or connivance.

10. In the present case, no recovery was effected from the vehicle bearing registration No.HR-03-K-0056.

11. The vehicle seized/impounded can be released on ‘sapurdari’ under Section 451 of the Cr.P.C. during the pendency of the trial to the registered owner. The reasoning given in the impugned order that the petitioner-Satinder Pal Singh cannot be given the possession of the vehicle seized/impounded on the ground that it was recovered from the accused Davinder Singh @ Dev, who is facing trial on the allegation of dealing in the business of narcotics and huge quantity of contraband is also alleged to have been recovered from him and the vehicle involved would not be produced in the Court if required. Since in the earlier order dated 05.06.2014, it was observed that the vehicle was sold subsequent to its recovery and involvement in the present case, therefore, it is held that the ownership of the vehicle is suspicious, cannot be accepted.



12. We have perused the registration certificate of the vehicle (Annexure P-2) and found that the vehicle is registered in the name of the petitioner Satinder Pal Singh, therefore, it is not disputed that the petitioner is the owner of the vehicle.

13. In view of the above, the present petition is allowed and the impugned order dated 03.01.2020 is set aside. The vehicle is ordered to be released on ‘sapurdari’ to the petitioner subject to furnishing of surety bonds in a sum of Rs.1 lac to the satisfaction of the learned trial Judge concerned with an undertaking that he shall not change its colour and condition and not to transfer ownership of the same in any manner without prior permission of the Court concerned and that he shall produce the same in the Court on each and every date of hearing or as and when required. Moreover, also with an undertaking that the vehicle concerned shall not be re-utilized for any transporting of any narcotic drugs or psychotropic substance and in case it becomes re-utilized for the same purpose then it is open to the learned State counsel to proceed to make an appropriate application before this Court for recalling of the order

14. Pending applications, if any, shall stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

18.09.2024
A.Kaundal

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No