

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-511-2021 (O&M)
Reserved on:.02.07.2024
Pronounced on: 17.07.2024

Union of India ...Petitioner

Versus

Jasvir Singh ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Gurmeet Kaur Gill, Sr. Panel Counsel
For the petitioner/UOI.

Mr. Kunal Choksi, Advocate
for the respondent.

ANOOP CHITKARA, J.

Challenging the release of the vehicle bearing registration No.PB-10FD-6080 (Hyundai-i20 car) on superdari by the trial Court vide order dated 09.02.2021, petitioner-UOI has come up before this Court by filing the present petition under Section 401 CrPC.

2. I have heard counsel for the parties and its analysis would lead to the following outcome.

3. The relevant facts to decide the present petition are taken from the complaint (Annexure P-1) filed by the NCB, as per which, on 06.05.2019, a specific information was received by Intelligence Officer about Gurpreet Singh that he is having massive quantity of contraband and is going to sell the same to Jasvir Singh (respondent herein). Based on this information, NCB spotted the i20 Car and from dicky of the car, recovered contraband prescribed under NDPS Act. The contraband along with car were seized by the NCB and investigation was carried out.

4. The respondent-Jasvir Singh filed an application dated 18.01.2020 (Annexure P-2) before the Judge, Special Court, Ludhiana for release of i20 Car on superdari and report was sought from the NCB and report dated 18.02.2020 (Annexure P-3) was also

submitted by the NCB. In the superdari report, the release of car was objected on the grounds that Jasvir Singh was present at the spot and car was used for illicit transport with his knowledge. It was admitted that Jasvir Singh was the registered owner of the car in question. Thus, in the entirety NCB's objection was that seized vehicle only be disposed under Section 52A & 60 of NDPS Act and it was not appropriate for the concerned Court to release the car and the same should not be released.

5. Vide the impugned order dated 09.02.2021 passed by the Additional Sessions Judge, Ludhiana, ordered the release of the car in question on superdari. The reasoning given by the Sessions Judge was that vehicle was detained in the police station and its condition would deteriorate from time to time and as such it was released on superdari bonds for a sum of Rs.4 lacs.

6. Feeling aggrieved, the NCB has come up before this Court by filing the present petition. The objection from NCB under Section 60 of NDPS Act deals with the confiscation of property, however such confiscation would come into effect when prosecution is able to prove its case. Section 60 of NDPS Act comes into operation when any offence punishable under this Act has been committed. Although as per prosecution that act has been committed and it shall be proved only during the trial. Regarding confiscation of the vehicle burden comes on to the owner of such vehicle under Section 60(3) of NDPS Act, if involvement of the vehicle or accused proved. Judge, Special Court has not finally released the vehicle because for the reason that trial is pending and infact reasoning adopted by the Sessions Court is that vehicle will deteriorate and it has been released on superdari which implies that in case the vehicle is liable for confiscation then the vehicle is to be produced in the terms of superdari bonds. Thus, the appropriate stage for NCB to seek confiscation of vehicle would come only when the trial is concluded.

7. Given above, there is no merit in the present petition and the same is dismissed. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

17.07.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.