

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1261-2022 (O&M)
Reserved on: 02.07.2024
Pronounced on: 17.07.2024

Union of India ...Petitioner

Versus

Gurpreet 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 on superdari by the trial Court, bearing registration No.PB-05-5677 (Maruti Van) vide order dated 16.09.2021, 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 (respondent herein) that he is having massive quantity of contraband and is going to sell the same to Jasvir Singh. 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. Thereafter, the abovesaid Maruti Van belonging to the respondent was also seized alongwith the contraband found from the dicky of the van.
4. The respondent-Gurpreet Singh filed an application (Annexure P-2) before the Additional Sessions Judge, Ludhiana, for release of Maruti Van on superdari and report was sought from the NCB and report dated 11.08.2021 (Annexure P-3) was also submitted by the NCB. In the superdari report, it is mentioned that van can be released

to the applicant-Gurpreet Singh, subject to their showing bills of purchase and related documents in their name and subject to conditions of superdari along with surety bonds. 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 16.09.2021, Judge, Special Court, Ludhiana, ordered the release of the van in question on superdari and the reasoning given in the said order, is as under:-

"...this Court is satisfied about claim of applicant. In the present circumstances they seem to be the best claimant of the vehicle. Alleged facts are yet to be proved. Till then vehicle cannot be allowed to rust in the police premises. Supurdari is just a temporary release of vehicle subject to final claims of anybody else which can be determined at later stage also. So it is in the interest of justice that vehicle should be released on sapurdari to the applicant. As far as arguments of the NCB, vehicle is liable for confiscation under Section 60 can be decided after conclusion of trial. So objection of the NCB overruled in view of the circumstances of the case, as in case vehicle is not released, condition thereof will deteriorate."

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. The 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.