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

CRM-M-26925-2024 (O&M)

Date of decision: 27.05.2024

Ram Singh Palsaniya

....Petitioner.

Versus

State of Haryana

...Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Raghav Chadha, Advocate,
for the petitioner.

.....

SANJIV BERRY, J. (ORAL)

By way of present petition filed under Section 482 of Cr.PC the petitioner seeks quashing/setting aside of the impugned order dated 16.05.2024 (Annexure P-5), passed by learned Chief Judicial Magistrate, Panchkula, whereby the application preferred under Section 451 Cr. PC moved by the petitioner to release the vehicle No. RJ52GA-5087 in case FIR No. 22 dated 29.02.2024 (Annexure P-1) was dismissed.

2. Heard.

3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner happens to be the registered owner of the vehicle in question and the aforesaid FIR (Annexure P-1) was registered under Sections 279, 337 and 427 IPC at the instance of the

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complainant against Deepak, who was the driver of the vehicle at the relevant time and after the accident, the vehicle in question was taken in possession by the police since 29.02.2024. He has contended that the driver of the vehicle had ran away and has no objection that after the occurrence the petitioner has moved an application for release of the vehicle on *Superdari* which was later on withdrawn vide order dated 18.03.2024 (Annexure P-3) passed by learned Chief Judicial Magistrate, Panchkula, without assigning any reason and by passing cryptic and non speaking order. He has contended that the impugned order dated 16.05.2024 (Annexure P-5) is not sustainable in the eyes of law and is liable to be quashed as the same has been passed without any reason in a cryptic manner being non speaking one.

4. Learned counsel for the petitioner has referred to the judgment of Hon'ble Supreme Court in 2003 AIR (Supreme Court) 638, titled '*Sunderbhai Ambalal Desai vs. State of Gujrat*', wherein, it has been observed by the Hon'ble Supreme Court that the power under Section 451 Cr.PC should be exercised expeditiously and judiciously for the proper custody pending conclusion of inquiry or trial and that the case property should be disposed of expeditiously and in case of vehicles, they should not be kept at police station so long but be given on *Superdari* by taking adequate security.

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5. Upon notice, Ms. Gaganpreet Kaur, DAG, Haryana, learned State counsel, has put in appearance on behalf of State respondent.

6. Arguments have been heard.

7. Admittedly, FIR (Annexure P-1) was registered on the statement of one Munish Sharma, claiming that on 28.02.2024, he along with his father Satya Parkash, mother Amita Sharma and sister, Ruhani, was going from Shimla to Mohali in Car No. HP-20-E-3003, driven by him and at about 9.30 P.M. when he had stopped the car on red signal then a vehicle No. RJ52GA-5087 came at a high speed driven in negligent manner hitting the car from behind, as a result whereof his car struck into a car parked ahead of him resulting in multiple injuries to his father, mother and himself. When he asked the name of the driver of that vehicle, he disclosed his name as Deepak but taking advantage of the people gathered at the spot, he ran away from the spot. Hence, the aforesaid FIR (Annexure P-1) in question was registered and the said vehicle was taken into police possession.

8. In support of his contention, learned counsel for the petitioner has placed on record, the copy of the registration certificate and also the Insurance Policy showing the vehicle in question, i.e. RJ52GA-5087, to be owned by the petitioner is duly insured. The petitioner had moved an application for release of the said vehicle on

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Superdari under Section 451 Cr.PC which, however, was dismissed vide the impugned order dated 16.05.2024 (*supra*). The said order reads as under: -

“Original RC and insurance of the vehicle not filed. Fresh police report also received and perused. Arguments heard. As per police report, Driver namely Deepak has not joined the police investigation, so, police has objection if the vehicle in question bearing registration No. RJ52GA-5087 is released on Superdari.

Heard. The application in hand is hereby dismissed. Papers be tagged with the challan/FIR, as the case may be.”

9. The perusal of the aforesaid impugned order dated 16.05.2024 would reveal that the learned Chief Judicial Magistrate, Panchkula, has passed the said order without assigning any reason as to why the vehicle could not be released on *Superdari* to the petitioner. The only ground mentioned therein is that as per the police report, the driver-Deepak has not joined the police investigation so the police has objections to the same. It was the bounden duty of the learned Magistrate to have dealt with the objections raised by the police and dispose of the application by passing a well reasoned speaking order which is not expected from an Officer of the level of Chief Judicial Magistrate especially when on the record the petitioner is established as a registered owner of the vehicle. The vehicle is also duly insured and moreover it was for the police to arrest the culprit and they are not



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doing so, would not have, in any manner adversely affected lawful claim of the petitioner.

10. As stated above, the impugned order dated 16.05.2024 (Annexure P-5), passed by the learned Chief Judicial Magistrate, Panchkula, being cryptic and non speaking one, suffers from infirmity and illegality and as such, is liable to be set aside. Accordingly, the impugned order dated 16.05.2024 (*supra*) is hereby set aside with the direction to the learned Chief Judicial Magistrate, Panchkula, to decide the application moved by the petitioner for Superdari of Vehicle No. RJ52GA-5087 in accordance with the law by passing a detailed speaking order and the same be disposed of within a period of 07 days positively from the date of receipt of this order.

11. Disposed of.

12. Pending miscellaneous application, if any, also stands disposed of.

27.05.2024
preeti

(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |