

2024:PHHC:096786



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-33135 of 2024
Date of Decision: 23.07.2024

Mohd. Meraj ...Petitioner
Versus
State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Sanawar Ali, Advocate, for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C., with a prayer to quash the impugned order dated 13.05.2024 (Annexure P-4) passed by the Court of Judicial Magistrate 1st Class, Narnaul and the impugned order dated 13.06.2024 (Annexure P-1) passed by the Court of Additional Sessions Judge, Narnaul, whereby, the application for releasing the vehicle bearing registration No. UP-15-ET-9793 on *Superdari* was ordered to be dismissed.

2. Learned counsel for the petitioner contends that the petitioner is the registered owner of the vehicle bearing registration No. UP-15-ET-9793. At about 2.47 a.m. on 24.09.2023, the vehicle was stolen by some unknown person and one FIR No. 276 dated 06.10.2023 under Section 379 IPC, Police Station Jani, District Meerut, Uttar Pradesh, was ordered to be registered against the

unknown persons on the basis of the complaint filed by the present petitioner. Thereafter, the petitioner also filed his claim before the insurance company. In the meantime, the petitioner came to know that one FIR No. 274 dated 10.10.2023, under Sections 11 of Prevention of Animal Sacrifice Act 1959, Sections 13(2) and 17 of the Haryana Gauvansh Sanrakshan Gausamvardhan Act 2015 and Sections 427 and 429 of IPC, Police Station Nangal Chaudhary, District Mahendergarh (Annexure P-3) was registered on the basis of the complaint moved by a person, namely, Vikram Singh and the vehicle owned by the petitioner was found involved in the said crime. Consequently, the petitioner moved an application for releasing his vehicle on *Superdari* and vide order dated 13.05.2024 (Annexure P-4), the Court of Judicial Magistrate 1st Class, Narnaul dismissed the said application. The petitioner filed a revision petition before the Court of Sessions Judge, Narnaul. Vide the impugned order dated 13.06.2024 (Annexure P-1), the Court of Additional Sessions Judge, Narnaul, dismissed the revision petition filed by the present petitioner.

3. Learned counsel for the petitioner contends that the petitioner had no knowledge about the use of his vehicle by the unknown accused, who were arrayed as accused in FIR No. 274 dated 10.10.2023, under Sections 11 of Prevention of Animal Sacrifice Act 1959, Sections 13(2) and 17 of the Haryana Gauvansh Sanrakshan Gausamvardhan Act 2015 and Sections 427 and 429 of IPC, Police

Station Nangal Chaudhary, District Mahendergarh, (Annexure P-3).

He further contends that after the registration of the FIR (Annexure P-3), the vehicle of the petitioner is lying in the police station and may be released on *superdari* to him. Learned counsel while relying upon a judgment dated 14.01.2020, rendered by Co-ordinate Bench in CRM-M No.14463 of 2019, titled "**Azhar Husain Versus State of Haryana**", submits that in the similar circumstances, the petition was accepted and the vehicle of the owner-accused was directed to be released on *superdari*.

4. On the other hand, on advance notice, Ms. Sheenu Sura, DAG, Haryana, has appeared on behalf of respondent/State and opposed the submissions made by the present petitioner.

5. I have heard learned counsel for the parties and perused the record.

6. There is no dispute that the petitioner is lawful owner of the vehicle bearing registration No. UP-15-ET-9793, which is lying in the police station in another FIR (Annexure P-3). Even, the said vehicle was taken into possession by the police on 11.10.2023 and no useful purpose is going to be served by keeping the seized vehicle in police station for a long period. Even otherwise, the offence is triable exclusively by the Court of Magistrate and the conclusion of the trial may take quite a long time.

7. Moreover, the prayer made by the petitioner has been declined in terms of the provisions laid down under Section 17 of the

2015 Act whereas the vires thereof were assailed before this Court by way of Civil Writ Petition No. 19153 of 2016, titled "*Manipal Versus State of Haryana and others*", which was disposed off vide order dated 30.05.2017 and the same reads as under:-

"The petitioner has approached this Court seeking to challenge Section 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (for short, "the Act") which provides for confiscation of the vehicle used in any offence committed under the Act.

Learned counsel for the State submitted that the process for amendment of the Act is in progress and he has instructions from Dr. Rajbir Vats, Gaushala Development Officer, Department of Animal Husbandry & Dairying, Panchkula to state that the vehicle in question namely, UP-11AT-1273 Ashoka Leyland Pick Up may be released to the petitioner on superdari to the satisfaction of Judicial Magistrate Ist Class, Yamuna Nagar.

In view of the stand taken by learned counsel for the State, learned counsel for the petitioner submitted that the main writ petition can also be disposed of in case the State is in process of making amendment in the Act vires of which is under challenge.

After hearing learned counsel for the parties, the present petition is disposed of at this stage as regards vires of Section 17 of the Act is concerned, as amendment thereof is under consideration.

In view of the stand taken with reference to release of vehicle, it is directed that the same shall be released to the petitioner on superdari subject to the satisfaction of Judicial Magistrate Ist Class, Yamuna Nagar."

8. As per information provided by the learned State Counsel, no such exercise of carrying out the amendment of the 2015 Act has been concluded so far and under similar circumstances, Co-ordinate Bench of this Court, vide order dated 14.01.2020 in **Azhar Husain's** case (supra), has already ordered to release the vehicle allegedly involved under the 2015 Act on superdari. Relevant paras of the said order dated 14.01.2020 are reproduced hereunder:-

"After hearing learned counsel for the parties, the present petition is allowed in view of the order dated 14.11.2017 passed in CRR-4013-2017 and the impugned orders dated 02.01.2019 and 11.06.2018 are hereby set aside.

The truck in question be released on superdari in favour of the registered owner, on furnishing superdari bond, subject to the satisfaction of the trial Court/Duty Magistrate/SDJM concerned."

9. Thus, in the humble opinion of this Court, upon consideration of the aforesaid facts, it may be appropriate to order release of seized vehicle on superdari in favour of its registered owner.

10. Resultantly, the petition is allowed and the impugned order dated 13.05.2024 (Annexure P-4) passed by the Court of Judicial Magistrate 1st Class, Narnaul and the impugned order dated 13.06.2024 (Annexure P-1) passed by the Court of Additional Sessions Judge, Narnaul, are hereby set aside. The seized vehicle is hereby directed to be released on superdari to its registered

owner-petitioner, on furnishing superdari bonds, subject to the satisfaction of the Trial Court/Duty Magistrate/SDJM concerned.

23.07.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

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