

240 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1673-2022 (O&M)

Date of Decision: 27.02.2024

Gurmeet Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. V.B. Godara, Advocate,
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

HARKESH MANUJA, J. (Oral)

CRM-29340-2022

Prayer in this application is for condoning the delay of 73 days in
filing the main petition.

Having heard learned counsel for the parties and gone through the
contents of the application, same is allowed and delay of 73 days in filing
the main petition is condoned.

Main case

1. Challenge in the present revision petition is to the judgment dated
17.01.2022 passed by the Court of Additional Sessions Judge, Fatehabad,
whereby the revision petition filed against the order dated 22.12.2021 passed
by the Court of Chief Judicial Magistrate, Fatehabad, stood allowed.

2. Briefly, the petitioner is the registered owner of the Canter Truck

Make Eicher 11.10 XP bearing registration No.PB-02-BL-9988, which was impounded by the police in FIR No.122 dated 14.03.2021, under Sections 13(1) & 13(2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015, registered at Police Station City, Fatehabad, District Fatehabad.

3. Feeling aggrieved, the petitioner moved an application dated 15.12.2021 for the release of the aforesaid vehicle on superdari. Trial Court vide order dated 22.12.2021 released the vehicle in question in favour of the petitioner on superdari, to the satisfaction of the SHO concerned, besides ordering the investigating officer to join the accused in the investigation as per law.

4. Aggrieved against the aforesaid order, prosecution filed the revision petition before the Court of Additional Sessions Judge, Fatehabad, which was allowed vide judgment dated 17.01.2022, thereby setting aside the order dated 22.12.2021 passed by the trial Court. Hence, the present revision petition.

5. While assailing the aforesaid judgment, learned counsel for the petitioner submits that the Court below failed to appreciate the fact that the vehicle in issue being a commercial vehicle was a source of income to the petitioner and due to its impounding, the petitioner is suffering huge business as well as financial loss, besides it, the vehicle is becoming junk day-by-day.

Learned counsel while relying upon a judgment dated 14.01.2020, rendered by Co-ordinate Bench in ***CRM-M-14463-2019***, titled ***“Azhar Husain Versus State of Haryana”***, submitted that in the similar circumstances, the petition was accepted and the vehicle of the owner-

accused was directed to be released on *superdari*.

6 Learned State Counsel has vehemently opposed the prayer made in the petition, however, learned State Counsel has no answer to the order dated 14.01.2020 passed in ***Azhar Husain's case (supra)***.

7. I have heard learned counsel for the parties and gone through the paper book.

8. In the present case, the seized vehicle is lying in the police station for the last more than 01 year, which may outlive its utility with the passage of time. No useful purpose is going to be served by keeping the seized vehicle idle in police station for a long period as the same will become junk. The offences mentioned in the FIR (*supra*) are triable by the Magistrate, which may take long time.

9. 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.”

10 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.”

11. 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.

12. Resultantly, the petition is allowed and impugned order dated 17.01.2022 passed by the Court below is 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.

27.02.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: yes/no
Whether reportable? yes/no