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

**CRR-2352-2023****Date of decision: 11.09.2024****KULDEEP****....Petitioner****Versus****STATE OF HARYANA****....Respondent****CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY****Present:-** Mr. Vikas Bhishnoi, Advocate, for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana

**\*\*\*\*\*****SANJIV BERRY, J. (ORAL)**

By way of present petition petitioner has challenged the impugned order dated 18.08.2023 passed by learned Additional Sessions Judge, Fatehabad, whereby the application filed by the petitioner for release of tractor bearing number HR-32-B-1439 on superdari has been declined.

2. Brief facts of the case are that Complainant-Sarbjit Kaur registered FIR stating that she and her sister-in-law Priyanka had agricultural land sharing with accused Gurcharan Singh and others and in the said land there is a way for which Court stay is there on the above said way. On 30.05.2023, disobeying the Court order, accused armed with sticks and batons came on tractor and had destroyed the way and on opposing the same accused with intention to kill her father-



in-law tried to run over tractor on him and also passed casteist remarks. On these allegations FIR was registered against Gurcharan Singh and others wherein the tractor in question was taken in possession.

3. Learned counsel for the petitioner contends that the present petitioner filed an application for releasing the tractor in question in case FIR No. 126 dated 30.05.2023 under Section 323/506/34 IPC and Section 3(1)(s) of SC/ST Act, P.S. Sadar Tohana, titled as “State vs. Gurcharan Singh”, before the learned trial Court and the same was dismissed vide impugned order dated 18.08.2023. He contends that the order passed by the learned trial Court is based on conjunctures and surmises. He contends that Ramesh, father of the petitioner, is the registered owner of the Sonalika Tractor in question i.e HR-32B-1439 and he died on 12.06.2021 and before his death he has handed over the possession of the said tractor to Gurcharan Singh in the year 2014 and an affidavit for sale of tractor was also handed over. He contends that the tractor is lying in police custody and it will depreciate the value of the tractor day by day. He contends that the petitioner Kuldeep is the son of deceased Ramesh and had moved an application for release of the tractor on superdari as he needs the same for agricultural purposes and the said tractor is not required for further investigation and accused Gurcharan Singh had not transferred the said tractor in his name and has no objection if the tractor is released to the petitioner on superdari. Hence he prays for quashing of the impugned order dated 18.08.2023.



4. Per contra, learned State counsel referring to the reply submitted by the State has argued that during the course of trial in FIR No. 126 dated 30.05.2023 under Section 323/506/34 IPC and Section 3(1)(s) of SC/ST Act, P.S. Sadar Tohana, in which an application has been moved by Kuldeep son of Ramesh for release of tractor on superdari, stating that his father Ramesh Kumar was the owner of the said tractor who had expired on 12.06.2021 and his father had sold the said tractor to Gurcharan Singh in the year 2014. She further contends that a report from SHO concerned was called wherein it is stated that the aforesaid tractor was taken in possession in case FIR No. 126 dated 30.05.2023 and deposited in Malkhana and as per original RC, Ramesh Kumar son of Ram diya, resident of Dhamtan Sahab, District Jind is the registered owner and the RC of the vehicle is in possession of the police and the same was valid upto 26.04.2020. She contends that learned trial Court had rightly dismissed the application and there is no merit in the present petition. Hence she prays for dismissal of the present revision petition.

5. After considering the respective arguments and perusing the record it transpires, there is no dispute qua the fact that the tractor in question was taken into police possession from the accused Gurcharan Singh. It is the case put forth by the petitioner that the said tractor originally belongs to his father Ramesh Kumar who has since expired on 12.06.2021 and he had during his lifetime sold the tractor to the accused Gurcharan Singh in the year 2014. Admittedly the



Registration Certificate of the tractor has already expired on 26.04.2020 and registered owner of the tractor had already expired and as per the case of the petitioner himself it was sold by his father to accused Gurcharan Singh in the year 2014, the learned counsel for the petitioner could not explain under what circumstances the petitioner can seek superdari of the said tractor, especially when the possession thereof was already with Gurcharan Singh since 2014, from whom the police had taken it in possession in the instant FIR. Apart from the petitioner, there might be other legal representative of the deceased Ramesh Kumar. The proper procedure would have been for the petitioner to get the tractor transferred in his name from the Registering Authority after getting the Registration Certificate of the tractor revalidated. Although one of the brother of the petitioner namely Malkait Nain has also given affidavit to the fact that he has no objection in grant of superdari in favour of the petitioner and so is the affidavit given by above said Gurcharan Singh but the same will not make the petitioner owner of the tractor especially when the Registration Certificate of the tractor has already expired. The learned trial Court has considered all these circumstances while declining the request of the petitioner for grant of superdari in the impugned order and no infirmity thereof could be noticed so as to interfere therein in exercise of revisional jurisdiction.

6. Resultantly, finding no merit in the instant petition, the same is hereby dismissed. However, the petitioner will be at liberty to

file application afresh after getting the tractor transferred in his name,  
in accordance with law from the Registering Authority.

7. Any observation made above shall not be construed as  
opinion of this Court on the merits of the case.

11.09.2024  
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(SANJIV BERRY)  
JUDGE

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