



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

271

CRR-3062-2019

Date of decision : 09.05.2024

Lakhveer Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kamal Narula, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

1. This is a revision directed against the order dated 21.09.2019, whereby application filed by the petitioner seeking release of the vehicle on superdari stands rejected holding that the vehicle is liable to be confiscated.

2. Counsel for the petitioner while assailing the order submits that the petitioner is not one of the nominated accused in the present FIR. Reference is being made to para 2 of the reply filed by the State. As per which, the FIR was registered against two accused namely Maan Singh s/o Mukhtiar Singh and Bhinder Singh @ Bhalla and during the investigation name of one Jagsir Singh @ Babbu s/o Jang Singh cropped up.

3. State counsel however submits that the vehicle was seized from the possession of the main accused namely Maan Singh s/o Mukhtiar Singh and Bhinder Singh @ Bhalla who were using the same for



transportation of the contraband as 3 kg 500 gms of poppy husk was recovered. He thus submits that the Court below has passed a well reasoned order holding that the vehicle cannot be released being liable to be confiscated.

4. I have heard rival contention of the counsel representing the parties and have gone through the records of the case.

5. Section 60 of the 1985 Act reads as under:-

1) Whenever any offence punishable under this Act has been committed, the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.

6. Section 60(1) provides for confiscation of the apparatus, materials and utensils etc. which have been used in commission of the offence. However, Sub-Section 3 thereof provides that conveyance used in carrying narcotic drug shall be liable to be confiscated, unless the owner of the conveyance proves that it was so used without his knowledge or connivance. Admittedly, the petitioner who is the registered owner of the vehicle is not one of the co-accused. Trial Court while dismissing the application filed by the petitioner has missed the aforesaid vital aspect.

7. In view thereof, impugned order dated 21.09.2019 is hereby set aside. Matter is remanded back to the Special Court to decide the application afresh within a period of one month from the date of receipt of certified copy of the order.



8. Petition stands disposed off.

09.05.2024
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No