

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

CRR-2770-2022

Date of Decision:-09.04.2024

Satish Kumar.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Gurmeet Singh, Advocate for
Mr. Ankur Lal, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed against the order dated 03.11.2022 whereby the application of the petitioner for releasing the vehicle bearing registration no.HR-19K-0176 make Bolero Camper on superdari has been dismissed.

2. The brief facts of the case are that one Pramesh Kumar got registered FIR No.62 dated 07.03.2022 under Sections 201, 202, 302, 341, 34 IPC registered at Police Station Kosli, District Rewari, Haryana with the allegations that Satyawar had committed the murder of his son. A copy of the FIR is attached as Annexure P-1.

During the course of the investigation 04 persons including Satyawar were arrested and on conclusion of the investigation, the report under Section 173(2) Cr.PC was presented against them. After framing of

the charges the case is now posted for examination of prosecution witnesses.

3. The petitioner who is the registered owner of the Bolero Camper bearing registration no.HR-19K-0176 moved an application for the release of the vehicle on superdari which came to be dismissed by the court of Additional Sessions Judge, Rewari vide impugned order dated 03.11.2022.

It is the aforesaid order which is under challenge in the present petition.

4. The Counsel for the petitioner contends that the petitioner is nowhere concerned with the commission of the alleged offence as described in the FIR. However, during the course of the investigation it transpired that the vehicle in question had been used for committing the offence. Admittedly, the petitioner was the registered owner of the vehicle and, therefore, even though the vehicle in question might have been used for the commission of crime, the same ought to have been released to him by way of interim custody since neither the State nor the owner of the vehicle was to be benefited in any manner, if the vehicle was retained in the premises of the police station. On the other hand it was likely to diminish in value and the parts of the vehicle were also likely to be stolen. He thus contends that the impugned order be quashed and the vehicle be handed over/released to him on imposition of appropriate conditions. Reliance is placed on the judgments in *Sunder Bhai Ambala Desai Vs. State of Gujarat 2003(1) RCR (Criminal) 380* and *Gurbinder Singh @ Shinder Vs. State of Punjab 2016(4) RCR (Criminal) 492*.

4. The Counsel for the State on the other hand while referring to the reply dated 08.01.2024 contends that the vehicle in question had been used to commit the heinous offence. There was an apprehension that if the

vehicle was released on superdari, the same could be tampered with or used to commit another offence. He submits that the impugned order had rightly been passed and the vehicle ought not be released to the petitioner even though he was the registered owner.

5. I have learned Counsel for the parties at length.

6. In ***Sunder Bhai Ambala Desai's case (supra)*** the Hon'ble Supreme Court has held as under:-

“ 15. Learned senior counsel Mr. Dholakia, appearing for the State of Gujarat further submitted that at present in the police station premises, number of vehicles are kept unattended and vehicles become junk day by day. It is his contention that appropriate directions should be given to the Magistrates who are dealing with such questions to hand over such vehicles to its owner or to the person from whom the said vehicles are seized by taking appropriate bond and the guarantee for the return of the said vehicles if required by the Court at any point of time.

16. However, the learned counsel appearing for the petitioners submitted that this question of handing over vehicles to the person from whom it is seized or to its true owner is always a matter of litigation and a lot of arguments are advanced by the concerned persons.

17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.

19. For articles such as seized liquor also, prompt action should be

taken in disposing it of after preparing necessary panchnama. If sample is required to be taken, sample may kept properly after sending it to the chemical analyser, if required. But in no case, large quantity of liquor should be stored at the police station. No purpose is served by such storing.

20. Similarly for the Narcotic drugs also, for its identification, procedure under Section 451 Criminal Procedure Code, 1973 should be followed of recording evidence and disposal. Its identity could be on the basis of evidence recorded by the Magistrate. Samples also should be sent immediately to the Chemical Analyser so that subsequently, a contention may not be raised that the article which was seized was not the same.

21. However these powers are to be exercised by the concerned Magistrate. We hope and trust that the concerned Magistrate would take immediate action for seeing that powers under Section 451 Criminal Procedure Code, 1973 are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the concerned High Court in seeing that the rules framed by the High Court regard to such articles are implemented properly.

Adjourned for three weeks.

Order accordingly.”

The aforesaid judgment has been followed by this Court in ***Gurbinder Singh @ Shinder Vs. State of Punjab 2016(4) RCR (Criminal) 492 .***

7. In view of the aforementioned judgments it is apparent that if the vehicle remains parked in the police station for a considerable period of time, it would become unfit for being plying on the road as keeping it parked in the sun and rain could damage its tyres, colour, machinery, battery as also interiors of the vehicle. The value of the vehicle would also diminish in such a situation.

8. Thus the present petition is allowed. The vehicle bearing registration No. HR-19K-0176 make Bolero Camper is ordered to be released to the petitioner/registered owner on superdari on general terms and

conditions subject to the petitioner/registered owner executing personal bonds in the sum of Rs.1 lakh with one surety of the like amount to the satisfaction of the CJM/Duty Magistrate with an undertaking that as and when the Trial Court would require the said vehicle, he would produce the same before it at his own cost. He shall also not sell, transfer or alter the physical condition of the vehicle in any manner. Though he is not an accused in the instant FIR, nevertheless he shall also furnish an undertaking that he will not use or permit its use for commission of any offence and in case of involvement of the petitioner or the aforementioned vehicle in any case it would be open to the prosecution to move an application for cancellation of the order releasing the vehicle on superdari.

9. Disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

April 09, 2024
Vinay

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