

2024:PHHC:172419

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

CRR-2178-2024

Date of Decision- 05.11.2024

BALWINDER KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Bhupinder Singh Kundra, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. This revision petition has been directed against the impugned order dated 04.10.2024 passed by the learned Judicial Magistrate Ist Class, Ludhiana in CRM No.38381/2024 in the case arising out of FIR No.221 of 16.08.2024 under Section 18/61/65 of NDPS Act registered at Police Station Ludhiana, dismissing the application of the petitioner for release of vehicle/truck bearing registration No.WB-39C-0968, Chassis No.MAT7930 04 M1K21536, Engine No.B6768A250D02112K 64173021 registration date 12.11.2021, on superdari.

2. It is contended by the learned counsel for the petitioner that the petitioner is the registered owner of the above-stated vehicle which has been taken in police possession in the above mentioned case and opium was allegedly recovered from the truck driver – Manpreet Singh @ Happy. It is further contended by the learned counsel that the truck was on its way from

West Bengal to Chandigarh Industrial Area, Phase-2, and was carrying two consignments which were to be delivered at Chawla Wife Products, Industrial Area, Phase-2, Chandigarh and to Jashan Enterprises, Industrial Area, Phase-2, Chandigarh, weighing about 15 MT and 14.08 MT, (Annexures P-3 & P-4). The vehicle had reached its destination well in time but as per prosecution story, the vehicle had been found near Bilgha Turn near Flyover and that the driver was allegedly found with the truck while looking for customers to sell the contraband allegedly recovered from him.

3. He further contends that the allegations in the FIR are prima facie false, frivolous and baseless and appear to be concocted ones because the material had already been supplied to the consignees. The truck driver of the truck has already been granted regular bail by the learned Additional Sessions Judge, Ludhiana, vide order dated 04.10.2024, Annexure P-5. As such, dismissal of the application of the petitioner for release of the above mentioned vehicle (truck) on Superdari to its registered owner, i.e., the present petitioner, by the learned Judicial Magistrate Ist Class, Ludhiana, is absolutely illegal and erroneous on the face of it.

4. Heard and case file also perused.

5. On perusal of the case file, it has revealed that the above mentioned vehicle (truck) is involved in the above mentioned FIR as the same, as per secret informer, was being driven by its driver – Manpreet Singh @ Happy, who had parked the truck at Bilgha Turn near Flyover and was waiting for the customers to sell his Opium and on raid being conducted, the information was found to be correct and 02 kgs. of opium was recovered from the truck. Perusal of the trial Court order also finds recorded that the vehicle, as per police report, is registered in the name of

the applicant, petitioner herein, however it was purchased out of the sale proceeds of the narcotic substance involved in the case in hand and is the case property.

6. In such a situation, where the vehicle in question is a case property and has been purchased out of sale proceeds of the narcotic substance involved in the case in hand and there is recovery of 2 Kgs of opium from the vehicle, this Court does not find any reason to set aside the order dated 04.10.2024 of the learned Judicial Magistrate Ist Class, Ludhiana in CRM No.38381/2024 (in the case arising out of FIR No.221 of 16.08.2024 under Section 18/61/65 of NDPS Act registered at Police Station Ludhiana), dismissing the application of the petitioner for release of vehicle/truck bearing registration No.WB-39C-0968, Chassis No.MAT7930 04 M1K21536, Engine No.B6768A250D02112K 64173021 registration date 12.11.2021, on superdari.

7. The Hon'ble Apex Court in ***“Sanjaysinh Ramrao Chavan v. Dattatray Galabrao Phalke as reported in (2015) 3 Supreme Court Cases 123”***, observed:

“14. ...Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal.

Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction.”

8. Resultantly, the present revision petition fails for want of any justifiable reason to release the vehicle on superdari in favour of the petitioner and, hence, the same is hereby ordered to be dismissed.

06.11.2024
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(SANDEEP MOUDGIL)
JUDGE

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