



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

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CRA-S-567-SB-2018 (O&M)
Date of decision: 27.10.2025

GURVINDER SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Ivneet Singh Pabla, Advocate
for the appellant.

Mr. Mohit Kapoor, Senior DAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

CRM-12132-2018

The matter was listed for hearing of an application for seeking release of the vehicle bearing registration No. PB-11-AZ-9001, however, during the course of arguments, learned counsel for the petitioner submits that he may be permitted to address arguments on the main appeal itself.

Learned State Counsel also has no objection to the same.

The prayer is hence accepted. The main appeal, which was admitted on 15.02.2018 is accordingly taken on Board today itself.

Application is accordingly disposed of as not pressed.

CRA-S-567-SB-2018

1. The instant appeal has been preferred against the order dated 08.02.2016 passed by the learned Special Court, Patiala, whereby the vehicle of the petitioner bearing registration No. PB-11-AZ-9001 has been ordered to be confiscated.

2. Learned counsel appearing on behalf of the appellant contends that FIR No. 165 dated 28.06.2013 was registered against one Baljinder Singh @ Bikar, on the statement of SI Satnam Singh. As per the fact set out in the said statement, on 28.06.2013, while SI Satnam Singh along with other police officials was patrolling at the bus stop of Dera Gobind Nagar, Shutrana, they noticed a car, make Optra, bearing registration No. PB-11-AZ-9001, approaching from the side of Shutrana. SI Satnam Singh signalled the driver to stop, however instead of complying, the driver attempted to flee by accelerating the vehicle. The police party chased and apprehended the driver, who, upon interrogation, disclosed his identity as Baljinder Singh @ Binder, son of Jagdish Singh, resident of Dera Kahangaria, near Bhakhra Canal. Upon conducting a search, the police recovered 55 kilograms of poppy husk from the said vehicle. Investigation was thereafter completed, and a final report was filed before the competent Court. The appellant, being the registered owner of the said vehicle, was initially nominated as a suspect. However, during the course of investigation, he was found innocent and was never tried for any offence.

3. Subsequently, vide judgment dated 01.12.2015, Baljinder Singh @ Bikar was convicted for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and vide order dated

05.12.2015, was sentenced to undergo rigorous imprisonment for ten years and to pay a fine of ₹1,00,000/-.

4. However, by a separate order dated 08.02.2016, the Judge, Special Court, Patiala directed confiscation of the appellant's vehicle on the sole premise that the appellant, having appeared as PW-7, had deposed that the accused had not taken the car from him. The Court, therefore, inferred that the appellant had attempted to support the accused through his testimony and, consequently, deemed him to be in knowledge of the offence committed by the co-accused, thereby justifying confiscation of his vehicle.

5. Learned counsel further contends that the conclusions drawn by the Special Court are based on conjectures and are thus inherently flawed. He submits that the provisions of Section 60(3) of the Narcotic Drugs and Psychotropic Substances Act, 1985 are not attracted to the present case. It is submitted that the element of mens rea or criminality is a sine qua non for invoking the said provision, which the prosecution has miserably failed to establish. No adverse inference could thus have been drawn merely on the basis of conjectures and surmises. Counsel submits that the very fact that the respondent-State had initially nominated the appellant as an accused but, upon investigation, found him innocent, clearly demonstrates that the appellant neither possessed knowledge of the offence nor acted in connivance with the co-accused from whose actual possession the contraband was recovered. It is further contended that the appellant's testimony as PW-7 could not have been used to draw an inference contrary to the findings in favour of the petitioner and that too after a completed investigation, particularly when, at no stage, was the appellant ever

summoned as an additional accused or made subject to trial proceedings. Learned counsel also submits that even as on date, there exists no appeal or proceeding wherein the appellant has been sought to be arrayed as an accused in connection with the said case.

6. Counsel for the respondent-State reiterates the reason as given by the Special Court to contend that the order of forfeiture has been rightly passed.

7. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present appeal.

8. For better appreciation of the controversy involved, it would be apposite to make a reference to the relevant provision which empowers the confiscation of the vehicle and has been invoked in the present case. The same is extracted as under:-

60. Liability of illicit drugs, substances, plants, articles and conveyances to confiscation.—

Xx xxx xxx xxx xxx xxx xxx xxx

(3) Any animal or conveyance used in carrying any narcotic drug or psychotropic substance 2 [or controlled substances], or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.

9. It is evident from a perusal of the same that for the purpose of directing forfeiture or confiscation of a mode of transport under Section 60(3) of the NDPS Act, the registered owner of the vehicle is required to establish that he had neither knowledge of nor was acting in connivance with the person from whose possession the contraband was recovered. The presumption against the owner is thus rebuttable.

10. In the present case, the sole reason cited by the Special Court for directing confiscation of the vehicle was that the appellant, while deposing as PW-7, had allegedly supported the main accused. On such premise alone, the Court proceeded to draw an inference of connivance on the part of the appellant which is wholly unsustainable in law and unsupported by any cogent material on record.

11. I am afraid that the reasoning adopted by the learned Special Court is manifestly unsustainable. It is no doubt true that the burden, in terms of Section 60(3) of the NDPS Act, lies upon the registered owner of the vehicle to establish that he had neither knowledge of nor was acting in connivance with the main accused, and such burden does not rest upon the prosecution. However, the factual matrix of the present case presents a distinct situation. It stands undisputed that the respondent-prosecution had initially nominated the appellant as an accused under the NDPS Act, but upon due investigation, the appellant was found to be not involved in the offence. Once the appellant had already been subjected to investigation, and the competent Investigating Agency itself has arrived at the conclusion that he was not complicit in the offence, the question of his connivance or knowledge stands duly investigated into and is negated. Consequently, the

appellant, having already been found innocent and such finding by the Investigating Agency having attained judicial acceptance, cannot be called in question again to put the appellant under a fresh burden to discharge absence of knowledge or connivance, for seeking release of his vehicle.

12. For the foregoing reason, I find that the reasons assigned by the Special Court for directing forfeiture of the vehicle would be improper.

13. Consequently, the present appeal is hereby allowed and the order dated 08.02.2016 directing forfeiture/confiscation of the vehicle bearing registration No. PB-11-AZ-9001 of the appellant is set aside and the vehicle is ordered to be released to the appellant, as per law and prevailing instructions.

14. All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)

JUDGE

OCTOBER 27, 2025

Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No