

2025:PHHC:061664



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

CRR 571 of 2025

Date of Decision: 08.05.2025

Anita

...Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Raman Chawla, Advocate, for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition against the impugned order dated 18.01.2025 passed by the Court of Shri Nishant, Additional Sessions Judge, Hisar, whereby, the application filed by the petitioner for releasing Hero Splendor Plus motorcycle bearing registration No. HR-86B-0112 on superdari to the petitioner was ordered to be dismissed.

2. Learned counsel for the petitioner submits that a case FIR No. 473 dated 03.12.2024 under Section 20-(b)(ii)B/61/85 of the NDPS Act, Police Station Narnaund, Tehsil Hansi, District Hisar, was ordered to be registered against Ankush, while he was carrying Sulfa (*charas*) on the motorcycle. During the pendency of the appeal, the

present petitioner moved an application (Annexure P-3) before the trial Court and prayed for release of the Hero Splendor Plus motorcycle bearing registration No. HR-86B-0112, on superdari to her. She submitted that she was the registered owner of the motorcycle and was not present at the spot alongwith the contraband. Even, she had no knowledge that her vehicle would be used for such illegal activities and was not arrayed as an accused in the present case. Further, the motorcycle was lying in the police station alongwith other seized vehicles and its idle parking for a longer period would deteriorate the machinery. Apart from that, the petitioner required the vehicle for her personal use and it may be ordered to be returned to her on superdari.

3. A short reply by way of an affidavit of the Deputy Superintendent of Police, Hansi, District Hisar, has been filed on behalf of the respondent-State and the same is taken on record. Learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the motorcycle was used for carrying the contraband and was liable to be confiscated by the State. Even otherwise, the trial was progressing before the trial Court and the prayer may be declined by this Court.

4. I have heard the learned counsel for the parties and perused the record.

5. In fact, the Hon'ble Supreme Court has laid down various principles, on the basis of which, a seized vehicle can be released on *superdari* during the pendency of the trial before the trial Court. The Hon'ble Supreme Court has held in the matter of ***Bishwajit Dey Vs. The State of Assam 2025(1) RCR (Criminal) 486*** as under:

“34. This Court is also of the view that if the Vehicle in the present case is allowed to be kept in the custody of police till the trial is over, it will serve no purpose. This Court takes judicial notice that vehicles in police custody are stored in the open. Consequently, if the Vehicle is not released during the trial, it will be wasted and suffering the vagaries of the weather, its value will only reduce.

35. On the contrary, if the Vehicle in question is released, it would be beneficial to the owner (who would be able to earn his livelihood), to the bank/financier (who would be repaid the loan disbursed by it) and to the society at large (as an additional vehicle would be available for transportation of goods).”

6. Still further, the Hon'ble Supreme Court in the matter of ***Sunderbhai Ambala Desai V. State of Gujarat, (2002) 10 SCC 283*** has held as follows:-

“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.”

7. Further, in **CRR No. 2412-2019** titled as “**Satnam Singh Vs. State of Punjab**”, decided on 16.02.2021, a Division Bench of this Court has also held as under:-

“9. In Raghbir Singh alias Beera Vs. State of Punjab : 2006 (4) RCR (Criminal) 343; Rajesh Kumar Vs. State of Haryana : 2007(2) RCR (Criminal) 561 and Iqbal Singh Vs. State of Punjab : 2013(2) RCR (Criminal) 612 the vehicles seized under the NDPS Act case were ordered to be released on sapurdari by Single Benches of this Court. However contrary view was taken by a Single Bench of this Court in CRR No.3231 of 2014 titled as Kirandeep Vs. State of Punjab decided on 12.12.2014 that in view of liability to confiscation, the vehicle seized under the NDPS Act case could not be released on sapurdari. In view of the conflict, reference was made to Division Bench in CRR No.1765 of 2015 titled as Gurbinder Singh @ Shinder Vs. State of Punjab decided on 19.09.2016 reported as 2016 (4) RCR (Crl.) 492. The Division Bench held that the vehicle used for transporting the narcotic drugs and psychotropic substances can also be released on sapurdari by invoking the provision under Section 451 of the Cr.P.C. The concluding observations made by the Division Bench in that case are reproduced as under:-

“21. we have no hesitation to hold that there is no provision under the NDPS Act debarring the release of the vehicle for interim custody. The provision under Section 451 Cr.P.C. which is found not inconsistent with

the provisions of the NDPS Act is applicable to the vehicle seized under the NDPS Act as well. No differential treatment to the vehicle seized under the NDPS Act is contemplated either under the provisions of the NDPS Act or under the ratio laid down by the Court of law. In our considered view, the law laid down by the Hon'ble Supreme Court in Sunderbhai Ambalal Desai's case (supra) will apply to the vehicles seized under the NDPS Act as well. Any contrary view taken by the Courts of law would be against the interest of the owner of the vehicles, the public at large and the State.

22. In the above facts and circumstances, we hold that the vehicle used for transporting the narcotic drugs and psychotropic substances can also be released on sapurdari invoking the provision under Section 451 Cr.P.C. The reference is answered accordingly.”

8. In view of the above discussion and the law laid down by the Hon'ble Supreme Court of India, the present petition is allowed and the Hero Splendor Plus motorcycle bearing registration No. HR-86B-0112 is ordered to be released on superdari to the petitioner, being registered owner on her furnishing superdari bonds subject to the satisfaction of the trial Court/CJM/Duty Magistrate. The concerned Court shall also be at liberty to impose any other condition at the time of release of the vehicle to ensure its identification and production during the trial. However, the petitioner shall file an undertaking before the trial Court that she would not make any

alterations in the vehicle and shall not dispose off the vehicle during the pendency of the trial before the trial Court.

08.05.2025	(N.S.SHEKHAWAT)
amit rana	JUDGE
Whether reasoned/speaking	: Yes/No
Whether reportable	: Yes/No