



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

295

CRM-M-28595-2025 (O&M)
Date of decision: 19.11.2025

Gurasewak Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Parvez Chugh and Mr. Bhavesh Ola, Advocates for the petitioner

Mr. Rahul Kumar Adia, AAG, Punjab

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition for setting aside the impugned order dated 30.09.2024 in application bearing No.CRM-450-2024 dated 04.09.2024, vide which the application dated 04.09.2024 preferred by the petitioner for release of vehicle bearing registration No.RJ-13-GB-8321 (Tata ACE Gold) on Superdari being registered owner has been dismissed.
2. Learned counsel submits that the petitioner is the owner of the commercial vehicle, which was being plied by his relative Gurwinder Singh, as a paid driver and FIR No.0065 dated 26.06.2024, under Sections 22D, 61 and 85 of NDPS Act, 1985 was registered, wherein the accused have granted regular bail by this Court vide order dated 13.08.2024 and the trial is underway.
3. The petitioner is not an accused in the case. The said vehicle being his only source of income, an application on 04.09.2024 for its release on superdari, filed by him has been rejected by the trial Court vide the impugned order only on the premise that the vehicle was found to be carrying intermediate



quantity of contraband and therefore, taken in police custody.

4. Hon'ble the Supreme Court in **Bishwajit Dey vs. The State of Assam**, Criminal Appeal No.87 of 2025, decided on 07.01.2025, while dealing with a similar issue observed and held thus:

“ xx xx xx

19. Having heard learned counsel for the parties and having examined the issue at hand, this Court finds that different Courts have taken divergent views with regard to interim release of conveyances during the pendency of the trial in NDPS cases. While the courts in cases referred to by learned counsel for the Respondent-State of Assam have not released the vehicles in the interim during NDPS trial, yet in **General Insurance Council & Ors. vs. State of Andhra Pradesh**, (2010) 6 SCC 768; **Gurbinder Singh @ Shinder vs. State of Punjab**, 2016 SCC OnLine P&H 16026; **Tej Singh vs. State of Haryana**, 2020 SCC OnLine P&H 4679; **Shams Tavrej vs. Union of India**, 2023 SCC OnLine All 1154; **Manakram vs. State of Madhya Pradesh**, CrI. Rev. 2421/2021; **Nirmal Singh vs. State of Punjab**, CRR1208-2018 (O&M); **Kawal Jeet Kaur vs. State of Karnataka**, 2024:KHCK:5691 and **Bhagirath vs. State of Rajasthan**, 2024: RJ-JD:36868, the Courts have directed release of the vehicles in the interim in NDPS cases.

xx xx xx

26. If the respondent-State's interpretation is accepted, then in a case where an accused is arrested carrying heroin in a private plane or a private bus or a private ship without the knowledge and consent of the management and staff of the private plan or bus or ship, the plane/bus/ship would have to be seized till the trial is over!

xx xx xx

29. Though seizure of drugs/substances from conveyances can take place in a number of situations, yet broadly speaking there are four scenarios in which the drug or substance is seized from a conveyance. Firstly, where the owner of the vehicle is the person from whom the possession of contraband drugs/substance is recovered. Secondly, where the contraband is recovered from the possession of the agent of the owner i.e. like driver or cleaner hired by the owner. Thirdly, where the vehicle has been stolen by the accused and contraband is recovered from such stolen vehicle. Fourthly, where the contraband is seized / recovered from a third-party occupant (with or without consideration) of the vehicle without



any allegation by the police that the contraband was stored and transported in the vehicle with the owner's knowledge and connivance. In the first two scenarios, the owner of the vehicle and/or his agent would necessarily be arrayed as an accused. In the third and fourth scenario, the owner of the vehicle and/or his agent would not be arrayed as an accused.

30. This Court is of the view that criminal law has not to be applied in a vacuum but to the facts of each case. Consequently, it is only in the first two scenarios that the vehicle may not be released on superdari till reverse burden of proof is discharged by the accused-owner. However, in the third and fourth scenarios, where no allegation has been made in the charge-sheet against the owner and/or his agent, the vehicle should normally be released in the interim on superdari subject to the owner furnishing a bond that he would produce the vehicle as and when directed by the Court and/or he would pay the value of the vehicle as determined by the Court on the date of the release, if the Court is finally of the opinion that the vehicle needs to be confiscated.

31. This Court clarifies that the aforesaid discussion should not be taken as laying down a rigid formula as it will be open to the trial Courts to take a different view, if the facts of the case so warrant.

32. In the present case, this Court finds that after conclusion of investigation, a chargesheet has been filed in the Court of Special Judge, NDPS Karbi Anglong. In the said chargesheet, neither the owner of the Vehicle nor the driver has been arrayed as an accused. Only a third-party occupant has been arrayed as an accused. The police after investigation has not found that the appellant i.e. the owner of the vehicle, has allowed his vehicle to transport contraband drugs/ substances with his knowledge or connivance or that he or his agent had not taken all reasonable precautions against such use. Consequently, the conveyance is entitled to be released on superdari.

33. In fact, the Supreme Court in similar facts in **Sainaba vs. State of Kerala and Another**, 2022 SCC OnLine SC 1784 has held as under:-

“6. The appellant has urged inter alia that as per Section 36C read with Section 51 of the NDPS Act, Criminal Procedure Code would be applicable for proceedings by a Special Court under NDPS Act and Section 451 has an inbuilt provision to impose any specific condition on the appellant while releasing the vehicle. The appellant is undoubtedly the registered owner of the vehicle but had not participated in the offence as alleged by the prosecution nor had knowledge of the alleged



transaction.

7. Learned counsel seeks to rely on the judgment of this Court in *Sunderbhai Ambalal Desai v. State of Gujarat*, (2002) 10 SCC 283 opining that it is no use to keep such seized vehicles at police station for a long period and it is open to the Magistrate to pass appropriate orders immediately by taking a bond and a guarantee as well as security for return of the said vehicle, if required at any point of time.

8. On hearing learned counsel for parties and in the conspectus of the facts and circumstances of the case, and the legal provisions referred aforesaid, we are of the view that this is an appropriate case for release of the vehicle on terms and conditions to be determined by the Special Court.

9. The appeal is accordingly allowed leaving parties to bear their own costs.”

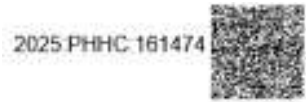
34. This Court is also of the view that if the Vehicle in the present case is allowed to be kept in the custody of police till the trial is over, it will serve no purpose. This Court takes judicial notice that vehicles in police custody are stored in the open. Consequently, if the Vehicle is not released 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).

36. CONCLUSION

Consequently, the present Criminal Appeal is allowed with directions to the trial Court to release the Vehicle in question in the interim on superdari after preparing a video and still photographs of the vehicle and after obtaining all information/documents necessary for identification of the vehicle, which shall be authenticated by the Investigating Officer, owner of the Vehicle and accused by signing the same. Further, the appellant shall not sell or part with the ownership of the Vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the Vehicle within one week of being so directed and/or pay the value of the Vehicle (determined according to Income Tax law on the date of its release), if so ultimately directed by the Court.”

5. Learned State counsel despite best efforts, has been unable to



controvert the factual position and draw out any distinctive aspects in the
aforementioned judgment or cite any contrary law.

6. The present petition is allowed in terms of the aforesaid judgment.

(AMAN CHAUDHARY)
JUDGE

19.11.2025
M.Kamra

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