

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-2918-2023 (O&M)

Decided on 08.05.2025

M/s Gill and Virk Finance Co.Ltd.

....APPELLANT

VERSUS

State of Punjab and Others

...RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. GS Punia, Sr.Advocate with
Ms. Harveen Kaur, Advocate for the appellant

Mr. Rajiv Verma, Sr.DAG Punjab

Sandeep Moudgil, J. (Oral)

(1). The appellant has filed the present appeal against the judgment dated 13.07.2022 passed by Special Court, Fatehgarh Sahib so far as confiscation of truck has been ordered in case FIR No.46 dated 23.05.2018 under Sections 15/61/85 of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the NDPS Act), registered at Police Station Khamanon.

(2). Briefly stated that accused Hardeep Singh and Dharminder Singh were apprehended by the police at Railway Bridge Sanghol, Bassi Pathana road while they were driving the truck No.PB-23G-5521 and were found carrying some contraband in bags each containing 40 kgs of poppy husk, in the subject truck. Trial was conducted and eventually, the Special Court convicted both the accused persons under Section 15 of the NDPS Act and sentenced them to undergo RI for 10 years with fine of Rs.1 lakh.

(3). Besides, the Special Judge further held that the truck bearing registration number PB-23G-5521 used by the accused for carrying the poppy husk, and which was sold by Jaspal Singh PW-6 to accused Hardeep Singh,

hence under Section 60/63 the said vehicle was ordered to be confiscated. The appellant-company is aggrieved by this part of the judgment and thus has prayed for restoring possession of the said truck.

(4). Learned counsel for the appellant submits that the appellant financed the subject truck in 2017 whereby loan of Rs.3,70,000/- was given and the vehicle was hypothecated with the appellant. The loan was given in the name of Jaspal Singh s/o Laabh Singh. The said Laabh Singh without the permission of the appellants sold the truck to his relative Hardeep Singh s/o Amolkh Singh, i.e. accused in the case and the loan amount is still due besides hypothecation of the registration book is in favour of the appellant.

(5). He further submits that during the pendency of the trial, appellant moved an application for getting the truck on sapurdari and the trial Court ordered the release of truck on sapurdari subject to furnishing of Sapurdari bond in the sum of Rs.30 lakhs along with one surety in the like amount vide order dated 07.06.2022 and since the surety amount was beyond the value of the truck, the appellant did not get the truck released and as such, it is matter of record that appellant has got lien over the truck being hypothecated with it.

(6). On the other hand, learned State counsel, on the basis of reply filed by Devinder Kumar, PPS, DSP, Sub Division Khamanon, District Fatehgarh Sahib submits that the appellant had prior knowledge about the confiscation and as such, the question of sending alleged notice under Section 60(3) of the NDPS Act to the appellant does not arise at all. Further, since the appellant had knowledge of the custody of the vehicle, it did not take any step to take the custody of the truck.

(7). Heard learned counsel for the parties.

(8). As per provisions of Section 60(3) of the NDPS Act, the conveyance carrying narcotic drugs etc is liable to confiscation, unless the owner of conveyance proves that it was so used without his knowledge of connivance. There is nothing on record which even slightly suggests that the appellant had no knowledge or connivance with the use of the truck for carrying narcotic drugs etc. though it is the argument raised on behalf of the appellant that Jaspal Singh son of Laabh Singh had illegally handed over the truck to accused Hardeep Singh against the knowledge of the appellant which is neither here nor there. Needless to say that it will always be open for the appellant being a finance company to take appropriate recourse in accordance with law to recover its loan amount or the collateral assets and if the superdari amount unsuits its interest, the appellant may approach the trial court, in accordance with law, highlighting the peculiar circumstances.

(9). Accordingly, in view of the above discussion, there is no merit in the present appeal and the same is dismissed.

08.05.2025

V.Vishal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No