



CRR-2420-2024 (O&M)

1

259

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2420-2024 (O&M)

Date of Decision: 10.02.2025

DALLU SINGH

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Sekhon, Advocate and

Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. The petitioner has approached this Court impugning the order dated 12.11.2024 passed by learned Additional Sessions Judge, Hisar vide which the application for releasing the truck on *superdari* to the petitioner has been dismissed.

2. Brief facts of the prosecution case are that on 25.10.2024, when the police party was on patrolling duty, a secret information was received that one truck bearing registration No. PB-11-AY-9081 in which two persons are coming from Indore (Madhya Pradesh), and are going to Ludhiana. There is intoxicant substance (poppy husk) in the said truck and if barricading be conducted then the intoxicating substance (poppy husk) can be recovered. Finding the information to be credible, the notice under Section 42 of the ND&PS Act 1985 was prepared and barricading was formed. Thereafter, as per the information given by the secret informer, one truck was seen coming from the side of Hansi, which was signalled to stop by the complainant. The driver of the said truck after seeing the police party stopped the truck near the barricading. When the driver

at the truck was asked about his name and address then he told his name as

**CRR-2420-2024 (O&M)****2**

Major Singh resident of Gardayani, District Sangrur and the person sitting on the left side of the driver's seat told his name as Ajaib Singh resident of village Tibbi Basti, Lehra Gaga, District Sangrur. There was suspicion that there was intoxicating substance (Poppy Husk) in the truck. Thereafter, on issuance of notice under Section 50 of NDPS Act, search of the offending vehicle was conducted and two plastic bags of white colour and 04 plastic bags of black colour were recovered from which intoxicating substance i.e. poppy husk was recovered. All the plastic bags containing intoxicating substance (poppy husk) were found to be of 50 kg 283 grams of weight including weight of the plastic bags. Recovered 06 parcels of plastic bags and truck bearing registration No. PB-11-AY-9081 was taken into possession by the police vide memo. Accused persons were arrested and FIR(supra) was lodged.

3. Learned counsel for the petitioner *inter alia* contends that the aforesaid vehicle i.e truck make Tata LPT 3118 bearing registration No. PB-11-AY-9081 is the only source of livelihood of the family of the petitioner but the same has been taken into custody by the investigating agency on 25.10.2024. Learned counsel further contends that there is no proper parking space available inside the police station and due to the severe weather conditions, the condition of the vehicle is deteriorating day by day. The vehicle is more than Rs. 30 lacs of value but the same will turn into scrap due to improper parking space at the police station. Learned counsel further contends that son of the petitioner is registered owner of the vehicle in question as discernible from the Registration Certificate (Annexure P-2) and he has executed a special power of attorney (Annexure P-3) in favour of the petitioner in relation to the aforesaid vehicle and learned Additional Sessions Judge, Hisar has passed the impugned order without



provisions contained in Cr.P.C. in this regard and the accused, who have been arrested at the spot along with the contraband have misused the vehicle owned by the petitioner who had no knowledge that his vehicle would be used for such illegal activities.

4. *Per contra*, learned State counsel opposes the prayer made by the petitioner on the ground that the vehicle in question has been used by the petitioner for transporting poppy straw and as such, the same being the case property, cannot be released to the petitioner on *superdari*.

5. Having heard the learned counsel for the parties and after perusing the record of the case it transpires that there is no provision under the NDPS Act debarring the release of vehicle on *superdari* and keeping the vehicle in question in Police Station for long period will render it unworthy for use and the impugned order has been passed in a mechanical manner without recording any reasoning.

Further the Hon'ble Supreme Court in judgment passed in ***Bishwajit Dey Vs. The State of Assam* 2025(1) RCR (Criminal) 486** has categorically held that the seized vehicle can be released on *superdari*, during the pendency of trial. Relevant portion of the aforesaid judgment is reproduced hereinbelow:

“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)."

"10. He submitted that this Court in the case of [Sunderbhai Ambala Desai V. State of Gujarat](#), (2002) 10 SCC 283 has held, "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."

Further a Division Bench of this Court in **CRR No. 2412-2019** titled as ***Satnam Singh Vs. State of Punjab***, decided on 16.02.2021, 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



CRR-2420-2024 (O&M)

5

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.”

6. Further in case of ***Sunderbhai Ambala Desai Vs. State of Gujarat (2002) 10 SCC 283***, Hon’ble Supreme Court has held that *“In our view, whatever, be the situation, it is of no use to keep such seized vehicles at the police station 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. In view of the aforesaid discussion and further in view of the decision rendered by Division Bench of this Court in ***Gurbinder Singh @ Shinder Vs. State of Punjab 2016 (4) RCR (Criminal) 492***, the present petition is allowed and the vehicle bearing registration No. PB-11-AY-9081 is ordered to be released on *superdari* to the petitioner, being its special power of attorney holder, on furnishing *superdginama* to the satisfaction of learned Judge, Special Court, Hisar/Additional Sessions Judge, Hisar.

8. Further, learned trial Court is directed to impose suitable conditions at the time of release of vehicle to ensure its identification and production during trial with an embargo on its sale and/or transfer till conclusion of the trial Court and for submission of a specific undertaking for production of such vehicle.

(HARPREET SINGH BRAR)
JUDGE

10.02.2025

Ajay Goswami

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