

CRM-M-31638-2024

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

**CRM-M-31638-2024 (O&M)
Date of decision :12.02.2026**

Gurwinder Singh @ Motta

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Dilpreet Singh Gandhi, Advocate, for the petitioner.

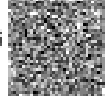
Ms. Ramta Chowdhary, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of the impugned order dated 04.06.2024 passed by learned Addl.Sessions Judge, Amritsar, vide which an application filed by the petitioner for release of the vehicle on *superdari* i.e. car Toyota Fortuner bearing registration No.PB-46-Y-6600, to the petitioner has been dismissed in a case FIR No.74 dated 29.06.2023, under Sections 21 and 29 of NDPS Act and Section 25 of the Arms Act, registered at Police Station Khilchian, District Amritsar.

2. Succinctly facts of the case are that the police party while on patrolling, stopped a white Toyota Fortuner bearing registration No.PB-46-Y-6600 on suspicion, but the driver of the car instead of stopping the same, tried to turn behind. However, the driver of the car was apprehended by the police and on asking, he disclosed his name to be Gurwinder Singh @ Mota (petitioner). He was suspected to be carrying some contraband and thus, search of the car was conducted. On conducting search of the car as well of the person of the petitioner, 500 grams of heroin, one empty magazine, 32 bore pistol and five live cartridges were recorded. He failed to produce the

licence regarding the possession of the same and thus, he was arrested on the



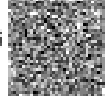
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spot and the car was confiscated by the police. The FIR was registered and the investigation commenced. Thereafter, during the trial, the petitioner moved an application before learned ASJ, Amritsar for releasing the said vehicles on superdari, however, after hearing both the sides, the same was declined vide order dated 04.06.2024. Hence, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has contended that the petitioner is the registered owner of the vehicle in question and the same was confiscated by the authorities in the said FIR. He submits that during the trial, an application was filed by the petitioner before learned ASJ, Amritsar, however, the same was illegally declined vide order dated 04.06.2024. He has placed reliance on the judgments in **Bishwajit Dey vs. The State of Assam**, in **Criminal Appeal No.87 of 2025**, decided on **07.01.2025**, **Rabindra Kumar Behera vs. State of Odisha**, in **CRLREV No.503 of 2022**, decided on **15.01.2025** and **Sanju vs. The State of Haryana**, in **CRM-M-14356-2022** decided on **02.08.2022** and **Sunderbhai Ambalal Desai vs State of Gujarat**, 2003(1) RCR (Criminal) 380 and has submitted that in the overall facts and circumstances of the present case, the impugned order deserves to be set aside and vehicle in question be released on *superdari* to the petitioner.

4. Learned State counsel has opposed the submissions made by learned counsel for the petitioner. She has submitted that during the investigation, the petitioner was found to be involved in the business of selling heroin alongwith co-accused Sukhdev Singh. She, thus, submits that learned trial Court has rightly dismissed the application filed by the petitioner for releasing the vehicle in question on *superdari* on the ground that the



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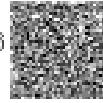
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vehicle was freezed by the competent authority concerned.

6. After hearing learned counsel for the parties and perusing the record, it is apparent that the dispute involved in the present case is regarding *superdari* of the vehicle bearing registration No.PB-46-Y-6600. Admittedly, the petitioner is the registered owner of the vehicle in question and the same is lying in police custody since 29.06.2023, and further that its continued retention is not necessary for the purpose of trial. Keeping the vehicle stationed at the police station would only result in its deterioration.

7. Hon'ble Supreme Court time and again has held that there is no specific bar under the provisions of NDPS Act for return of any seized vehicle used for transporting narcotic drug or psychotropic substance in the interim pending disposal of the criminal case. Dealing with the same issue, Hon'ble Supreme Court in **Bishwajit Dey**'s case (supra) has held as under:-

“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, Crl. Rev. 2421/2021; Nirmal Singh vs. State of Punjab, CRR- 1208-2018 (O&M); Kawal Jeet Kaur vs. State of Karnataka, 2024:KHC- K: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.

20. The judgements of this Court are confined to their facts or in the context of the expression ‘owner’ and do not lay down any general proposition of law. Consequently, the issue would have to be examined on first principles.

21. Upon a reading of the NDPS Act, this Court is of the view that the seized vehicles can be confiscated by the trial court only on conclusion of the trial when the accused is convicted or acquitted or discharged. Further, even where the Court is of the view that the vehicle is liable for confiscation, it must give an opportunity of hearing to the person who may claim any right to the seized vehicle before passing an order of confiscation. However, the seized vehicle is not liable to confiscation if the owner of the seized vehicle can prove that the vehicle was used by the accused person without the owner’s knowledge or connivance and that he had taken all reasonable precautions against such use of the seized vehicle by the accused person.

22. This Court is further of the opinion that there is no specific bar/restriction under the provisions of the NDPS Act for return of any seized vehicle used for transporting narcotic drug or psychotropic substance in the interim pending disposal of the criminal case.

23. In the absence of any specific bar under the NDPS Act and in view of Section 51 of NDPS Act, the Court can invoke the general power under Sections 451 and 457 of the Cr.P.C. for return of the seized vehicle pending final decision of the criminal case. Consequently, the trial Court has the discretion to release the vehicle in the interim. However, this power would have to be exercised in accordance with law in the facts and circumstances of each case.”

8. In Sunderbhai Ambalal Desai's case (supra) Hon'ble Supreme Court emphasized that vehicles and other seized property should not be kept in police custody for long periods. The relevant observations are as follows:

“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.”

9. Accordingly, the impugned order is set aside and the vehicle bearing registration No. PB-46-Y-6600 is ordered to be released to the petitioner on *superdari* to the satisfaction of the trial Court, which will be free to impose any condition as it deems fit, on the petitioner, at the time of release of his vehicle on *superdari* in his favour. Accompanying pending application(s), if any, also stands disposed of.

12.02.2026

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No