

**S. No.117****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR No.2024 of 2025**Date of Decision:27.08.2025****Pankaj Kumar****.....Petitioner****Vs.****State of Haryana****.....Respondent****CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present:- Mr. Gurbir Singh Sandhu, Advocate and
Mr. Ashish Pal Kaushal, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, DAG, Haryana.

Yashvir Singh Rathor, J. (Oral)

1. This petition has been instituted for setting aside the order dated 04.06.2025 passed by learned Additional Sessions Judge, Gurugram vide which the application moved by the revisionist for releasing the car bearing No.DL-3C-BM-9847 Polo white colour along with its RC, one mobile phone I-Phone 13 Pro, one mobile phone I-Phone-13, one passport of applicant N3508768, one Pan Card of applicant BICPK2311M, One Rupay Debit Card No.6522940319303494, one credit card of HDFC Bank, one credit card of Yes Bank, one laptop, Compaq and their charger and one hard drive- WD Elements of black colour in FIR No.384 dated 07.11.2023 registered under Sections 20(b)(ii)(c) and 29 of NDPS Act at Police Station, Sector-53, Gurugram has been rejected.
2. Upon notice, learned State Counsel has appeared, both the parties have been heard and material on file has been perused.
3. As per prosecution case, the afore-said articles were recovered in the present case which are stated to be case property. The learned trial Court called for the report from the concerned SHO who made report to the effect that above



said articles are case property and the same may not be released. Learned Trial Court after taking into consideration the report and the objection raised by the police, rejected the application and the relevant portion of the order is as under:-

“Heard. In view of the objection and report made by local police, the present application is hereby dismissed.

Copy of this order be sent to the SHO concerned for information. Papers be tagged with the main case file.”

4. A perusal of the afore-said order shows that the application in hand was rejected merely on the ground that the police has raised an objection against release of the vehicle. No reasons have been recorded by Additional Sessions Judge while rejecting the application. It is well-settled that vehicles and other articles seized in NDPS Act cases can be released on superdari/ interim custody as there is no bar under the said Act for releasing the same on superdari and there is no provision in NDPS Act which bars the applicability of Section 451 Cr.P.C. A Division Bench of High Court of Punjab and Haryana in **2016(4) RCR (Criminal) 492 – Gurbinder Singh alias Shinder Vs. State of Punjab** has held that provisions of Section 451 Cr.P.C are not inconsistent with any specific provision under NDPS Act and same shall have to be applied as mandatory under Section 51 of the said Act. Relevant Paras No.12 and 13 of the same are reproduced as under:-

““12. On a thorough perusal of the various provisions under the NDPS Act, we find that there is no specific provision debarring the release of the vehicle seized under the Act. When the provision under Section 451 Cr.P.C. is not inconsistent with any specific provision under NDPS Act, the same will have to be applied as mandated under Section 51 of the said Act.

13. A vehicle used for committing rape and murder is being released in the garb of Section 451 Cr.P.C. as interpreted by the Hon'ble Supreme Court in



Sunderbhai Ambalal Desai's case (supra). When the vehicles seized in such heinous crimes are released for interim custody, there is no logic in denying interim custody of the vehicle seized under the NDPS Act. Neither the State nor the owner of the vehicle is going to be benefited if the vehicle in the premises of the police station occupies a larger space posing inconvenience to the Police Department. Further, it is an open secret that when a vehicle is parked unattended, the valuable parts of the vehicle are casually taken away or stolen. Finally, when the Court comes to a conclusion that the vehicle was used for committing the crime, the vehicle which was kept in the open would have substantially deteriorated. Likewise, if the Courts take a final decision that the vehicle was not at all used for commission of the crime or the vehicle was used without the knowledge of the owner thereof, the owner will have to collect only the scrap of the vehicle. In other words, nobody is going to be benefited out of idle parking of vehicle totally unattended in the premises of the police station.”

5. The afore-said judgment has been followed by a co-ordinate Bench of this Court in **CRR No.2673 of 2022** titled **Maya alias Billo Vs. State of Punjab** decided vide judgment dated 02.06.2023. Even otherwise, this is a matter of common knowledge that vehicle, mobile phone, computer and charger will be subjected to decay and will get damaged if the same are allowed to be kept in the police station. No explanation has been given by the police as to how the mobile phones, passport, Pan Card, Debit Cards, Credit Cards, Laptop, Charger and Hard Drive are a part of the case property as it is only the narcotic substance which can be termed as case property under the Act. In case, the accused is ultimately convicted, the car in question can be confiscated under the provisions of the Act for which an opportunity of hearing shall have to be provided to the registered owner of the vehicle. However, Additional Sessions Judge has not applied her



mind while rejecting the application merely on the ground that police has raised an objection. Impugned order is thus not sustainable and is liable to be set aside.

6. Thus, keeping in view the above-said facts and circumstances, as also the law laid down by the Co-ordinate Bench in the above-said judgment, the present petition is allowed and the order dated 04.06.2025 is set aside and the Car Number DL-3C-BM-9847 Polo white colour and other articles are ordered to be released on superdari to the petitioner, on usual terms and conditions, subject to the petitioner executing superdari bonds to the satisfaction of the trial Court and subject to the condition that the afore-said articles will not be disposed of and the same shall be produced in the Court as and when directed by the trial Court, with an undertaking that the vehicle in question will not be sold without the prior permission of the trial Court and that as and when the trial Court would require the said vehicle, the petitioner will produce the same before the learned trial Court at his own costs and he shall also furnish an undertaking that in future, he will not use nor permit its use for commission of an offence under the NDPS Act and in case of involvement of the aforementioned vehicle in a case under the NDPS Act, it will be open to the prosecution to move an application for cancellation of the order releasing the vehicle on superdari.

(Yashvir Singh Rathor)
Judge

August 27, 2025

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No