



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

137

CWP-24295-2025

Decided on : 24.09.2025

Murari Lal

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Jayant Yadav, Advocate
for the petitioner(s).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. Petitioner – Murari Lal, has filed the instant petition under Article 226 of the Constitution of India, for setting aside of the order dated 21.12.2022, passed by learned Sub-Divisional Magistrate, Mahendragarh (Annexure P-2), and also the order dated 05.10.2023, passed by learned Deputy Commissioner, Mahendragarh at Narnaul (Annexure P-3), whereby, application for releasing his vehicle bearing registration No. RJ52-GA-0660, Chassis No. MA12N2GHKF1A17606, was dismissed for releasing of the vehicle of the petitioner on superdari.

2. Case of the petitioner is that one FIR No. 0007, dated 17.01.2022, was registered under Section 11 of the Prevention of Cruelty to Animals Act, 2015, Sections 13(1) & 13(2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015, and under Sections 285, 34, 429 of the Indian Penal Code, 1860, against one Tahir, resident of Arudka (Alwar), Rajasthan.



Petitioner being registered owner of the vehicle in question, had entered into an agreement to sell with one Tahir (accused in the FIR) on dated 08.06.2021. In the FIR, there is specific mention that in case Tahir fails to deposit two consecutive installments, then owner or the financier, would be at liberty to confiscate the vehicle and in such eventuality, agreement to sell would stand cancelled. It is after making full and final payment by the petitioner to the financier, finance company issued a letter to the RTO/Insurance to terminate the agreement, removing the hypothecation of the finance company, and thereupon, vehicle was registered in the name of the owner, i.e., petitioner. Criminal case against Tahir is still pending since 2023 for its final adjudication. Vehicle in question was confiscated by the police authorities on 17.01.2022, and same is lying in the police station for the last more than of 03 years and 08 months period.

3. By relying upon the judgment of this Court rendered in (i) **Rajesh Kumar v. State of Haryana**, 2021(2) PLR 85 : Law Finder Doc Id # 1802898, (ii) **Nafe Singh v. Devender Kumar**, 2004(1) RCR (Crl.) 987 : Law Finder Doc ID #67395, and (iii) CRM-M-52873 of 2023, titled as, **“Khurshid v. State of Haryana”**, D.O.D.: 09.09.2024 (appended as Annexure P-9), petitioner’s counsel prays for release of vehicle on superdari to him.

4. In response to the writ petition, one short reply by way of affidavit has been filed by the learned Sub-Divisional Magistrate, Mahendragarh, on behalf of respondent NO.2, and submits that the vehicle was being used for illegal transportation of Gauvansh in contravention of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (for brevity, ‘Act of 2015’), and report in this regard was sent by the SHO, Nangal



Chaudhary to Sub-Divisional Magistrate, Mahendragarh.

It is thereupon, that in compliance to the provision of law, i.e., Section 17(2) of the Act of 2015, vehicle has been confiscated after granting an opportunity to both the sides.

Learned State counsel also defends the order passed by respondent No.3 – Deputy Commissioner, Mahendragarh and submits that the criminal writ petition carries no weightage and is liable to be dismissed.

5. I have heard the respective learned counsel for the parties, impugned orders, and also perused the record along with cited judgments.

6. For reference, Section 17 of the Act of 2015, reads as under:-

“17. (1) Whenever an offence punishable under this Act has been committed, any vehicle used in the commission of such offence shall be liable to be confiscated by a police officer not below the rank of Sub-Inspector or any person authorized in this behalf by the Government.

(2) Where any vehicle referred to in sub-section (1) is confiscated in connection with the commission of any offence punishable under this Act, a report about the same, without unreasonable delay, be made by the person seizing it to the competent authority and whether or not a prosecution is instituted for commission of such offence, the competent authority, having jurisdiction over the area where the said vehicle was confiscated, may, if satisfied that the said vehicle was used for commission of offence under this Act, order confiscation of the said vehicle:

Provided that before ordering confiscation of the said vehicle, a reasonable opportunity of being heard shall be afforded to the owner of the said vehicle.

(3) Whenever any vehicle as referred to in sub-section (1) is confiscated in connection with commission of an offence under this Act then notwithstanding anything contained in any other law for the time being in force, no Court, Tribunal or other authority, except the competent authority, shall have jurisdiction to make order with regard to the possession, delivery, disposal, release of such vehicle.

(4) Where the competent authority is of the opinion that it is expedient in public interest that the vehicle, as referred to in sub-section (1), confiscated for commission of offence under this Act be sold by public auction, he may at any time direct it to be sold:

Provided that before giving such directions for sale of confiscated vehicle, a reasonable opportunity of being heard shall be afforded to the owner of the said vehicle.

(5) Any person aggrieved by an order made by the competent authority under subsection (2) or sub-section (4) may, within a period of thirty days from the date of such order, prefer an appeal to the Deputy Commissioner of the district concerned.

(6) Any order of confiscation made by the competent authority shall not prevent the infliction of any punishment to which the person affected



thereby is liable under this Act.”

7. Further, Section 2(d) of the Act of 2015, defines the ‘competent authority’, i.e., Sub-Divisional Magistrate or any other officer appointed by the Government, for exercising such power.

Section 17(1) authorizes the ‘police officer’ not below the rank of SI for confiscation of the vehicle used in the commission of the offence under the Act of 2015.

Section 17(3) excludes the jurisdiction of the all Courts, Tribunal or other authority, “*except the competent authority*” to make order with regard to the possession, deliver, disposal, release of such vehicle.

If the competent authority frames an opinion that in the public interest, confiscated vehicle be put to public auction and he may, at any time direct to sell it, if so deemed appropriate, by first granting opportunity of being heard to the owner of the said vehicle.

Section 17(5) is an enabling provision to file appeal for challenging the order passed in Sub-Section 2 or Sub-Section 4 of the Act of 2015.

8. In ***Rajnish Kumar’s case*** (*supra*) also vehicle was being used in violation of the Act of 2015, owner of the vehicle by filing application for releasing of the vehicle on superdari, and the request had been declined by Sub-Divisional Magistrate (competent authority) and was confirmed by the Deputy Commissioner in appeal.

For reference, paragraph Nos. 11, 12, 13 & 14 of the aforesaid judgment are reproduced here-under:-

“11. Even otherwise, Section 13 of the 2015 Act lays down the Offences under the Act. Under Section 13(2), any person, who



contravenes and attempts to contravene or abets the contravention of the provisions of Section 5 shall be guilty of an offence punishable with rigorous imprisonment for a term which shall not be less than three years and may extend to seven years and fine which shall not be less than Rs.30,000/- and may extend to Rs.70,000/-. Section 5 lays down restriction on export and mandates that no person shall export or cause to be exported cow for the purposes of slaughter either directly or through his agent or servant or any other person acting on his behalf in contravention of the provisions of the Act or with the knowledge that it shall be or is likely to be slaughtered. Section 15 of the 2015 Act lays down that notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under Section 13 shall be cognizable and non-bailable.

12. *Learned State counsel admits that the provisions of the Code of Criminal Procedure would apply.*

13. *A Division Bench of this Court in Gurbinder Singh @ Shinder v. State of Punjab, 2016(4) RCR (Criminal) 492 examined the issue as regards release of vehicles during pendency of the trial under the NDPS Act. View taken was that in the light of Sections 451/452/457 Cr.P.C., the vehicles in question can be released on superdari as nobody can be benefited out of idle parking of the vehicle unattended in the premises of the police station.*

14. *Relevant portion of the said judgment reads as under:*

"11. The question that arises for determination is whether Section 451 Cr.P.C., 1973 can be applied while considering the plea for interim custody of the vehicle seized under the NDPS Act. Section 51 of the NDPS Act which has a bearing on this issue reads as follows:-

"51. Provisions of the code of Criminal Procedure, 1973 to apply to warrants, arrests, searches and Seizures. The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply, in so far they are not inconsistent with the provisions of this Act, to all warrants issued and arrests, searches and seizures made under this Act."

As regards the seizure of any article or thing, the provisions of Cr.P.C. shall apply if it is not inconsistent with the provisions of NDPS Act.

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., 1973 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., 1973 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 For Subsequent orders see CRM- 23019-2016, 8 of 14 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.

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15. *A conveyance seized under the NDPS Act shall be liable to confiscation only when the owner of the conveyance who was given an For Subsequent orders see CRM-23019-2016, 10 of 14 opportunity by the Court could not prove that the conveyance was used without his knowledge or connivance. The Court will have to decide whether a vehicle seized under the NDPS Act is liable to confiscation only on conclusion of trial. The trial Court has to take independent decision on the question of confiscation irrespective of the conviction or acquittal or discharge recorded by it. But, at any rate, the trial Court is not supposed to pass any order of confiscation before expiry of one month from the date of seizure or without affording opportunity to the claimant. 16. On a perusal of the above provisions under the NDPS Act, we find that the trial Court has to take a decision as to whether a vehicle is liable to confiscation only on conclusion of the trial. A vehicle seized under the NDPS Act cannot be kept idle to the disadvantage of everyone concerned till the order of confiscation is passed on conclusion of trial." "*

In *Khurshid's case* (*supra*) (P-9), as per the facts of the cited case, petitioner there, who sought release of vehicle on superdari, was himself accused in the criminal case registered for violation of the provision of the Act of 2015.

8. Dealing with the provisions of Section 17 of the Act of 2015, and relying upon the precedent, i.e., CWP-19153-2016, titled as, "*Manipal v. State of Haryana and others*", D.O.D.: 30.05.2017, Coordinate Bench of this Court observed that *no useful purpose is going to be served by keeping the ceased vehicle in police station for a longer period, which most likely to be deteriorated, if left unattended.*

9. This Court also relied upon the order dated 14.01.2020, passed in CRM-M-14463-2019, titled as, "*Azhar Hussain v. State of Haryana*",



relevant part of the order reads as under:-

“5. There is no dispute that the petitioner is the special power of attorney holder of owner of the vehicle bearing registration No. RJ-32-GB-7535, which is lying in the police station in FIR No. 457 dated 04.12.2022 under Section 13(2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 11 of the Prevention of Cruelty to Animal Act, 1960 (Annexure P-1). Even, no useful purpose is going to be served by keeping the seized vehicle in police station for a long period, which is most likely to be deteriorated, if left unattended.

6. Moreover, the prayer made by the petitioner has been declined in terms of the provisions laid down under Section 17 of the 2015 Act whereas the vires thereof were assailed before this Court by way of Civil Writ Petition No. 19153 of 2016, titled "Manipal Versus State of Haryana and others", which was disposed off vide order dated 30.05.2017 and the same reads as under:-

"The petitioner has approached this Court seeking to challenge Section 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (for short, "the Act") which provides for confiscation of the vehicle used in any offence committed under the Act.

Learned counsel for the State submitted that the process for amendment of the Act is in progress and he has instructions from Dr. Rajbir Vats, Gaushala Development Officer, Department of Animal Husbandry & Dairying, Panchkula to state that the vehicle in question namely, UP-11AT-1273 Ashoka Leyland Pick Up may be released to the petitioner on superdari to the satisfaction of Judicial Magistrate Ist Class, Yamuna Nagar.

In view of the stand taken by learned counsel for the State, learned counsel for the petitioner submitted that the main writ petition can also be disposed of in case the State is in process of making amendment in the Act vires of which is under challenge. After hearing learned counsel for the parties, the present petition is disposed of at this stage as regards vires of Section 17 of the Act is concerned, as amendment thereof is under consideration.

In view of the stand taken with reference to release of vehicle, it is directed that the same shall be released to the petitioner on superdari subject to the satisfaction of Judicial Magistrate Ist Class, Yamuna Nagar."

7. As per information provided by the learned State Counsel, no such exercise of carrying out the amendment of the 2015 Act has been concluded so far and under similar circumstances, Co-ordinate Bench of this Court, vide order dated 14.01.2020 in CRM M-14463 of 2019 **Azhar Husain Vs. State of Haryana**, has already ordered to release the vehicle allegedly involved under the 2015 Act on superdari. Relevant paras of the said order dated 14.01.2020 are reproduced hereunder:-

"After hearing learned counsel for the parties, the present petition is allowed in view of the order dated 14.11.2017 passed in CRR-4013-2017 and the impugned orders dated 02.01.2019 and 11.06.2018 are hereby set aside.

The truck in question be released on superdari in favour of the registered owner, on furnishing superdari bond, subject to the satisfaction of the trial Court/Duty Magistrate/SDJM concerned.""



10. Thus, on total consideration of the facts and the earlier orders passed by this Court, which have already been discussed here-above, it may be appropriate to order the release of the confiscated/ceased vehicle on superdari in favour of the petitioner, who is registered owner of the same.

Resultantly, instant petition is allowed. Impugned order dated 21.12.2022 (P-2) and order dated 05.10.2023 (P-3), are hereby **set-aside**. The seized vehicle is hereby directed to be released on superdari to the petitioner, on furnishing superdari bonds, subject to the satisfaction of the trial Court/Duty Magistrate/SDM concerned.

However, it is clarified that petitioner shall not sell the vehicle to any other person and would maintain the vehicle in the same condition, and shall produce the same before the Court, as and when, it is so directed, for proper adjudication of the trial.

Petition stands **disposed of** accordingly.

Pending misc. application(s), if any, also stand disposed of.

(SANJAY VASHISTH)
JUDGE

September 24, 2025

J.Ram

Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: Yes/~~No~~