



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

CRM-M-9328-2025

Date of decision: 18.02.2025

Rajveer Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

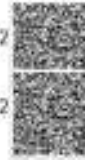
Present: Mr. Bhupinder Ghai, Advocate
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of order dated 10.09.2024 (Annexure P-5) passed by the learned Additional District and Sessions Judge, Sri Muktsar Sahib, whereby, the application filed by the petitioner for releasing the vehicle on *superdari* was dismissed, in the case stemming from FIR No.194 dated 07.11.2023 registered under Section 18(c) of the Narcotic drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act').

2. Briefly, the facts of the case, as alleged, are that the accused, namely, Sukhchain Singh, was apprehended along with Mercedes-Benz bearing registration No. DL10CG 0375 when he was allegedly stopped by a police party on Abohar road. The search of the said vehicle led to the recovery of a plastic polythene bag containing 1 kg of opium. The alleged contraband and the vehicle were taken into possession by the police by preparing a memo in that regard and subsequently, the FIR(supra) was registered. During the



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investigation of the case, it came to the light that the aforementioned vehicle stood registered in the name of one Jai Mehendiratta and its registration was effected in the year 2013. Further, the vehicle in question was supposed to be transferred to the name of the petitioner and the previous registered owner i.e. Jai Mehendiratta, had even provided a No Objection Certificate to him, thereby, relinquishing any claim to the vehicle and effectively consenting to its transfer. Accordingly, the said vehicle was sold by the previous registered owner, Jai Mehendiratta to the petitioner. In order to substantiate this claim, the petitioner provided a No Objection Certificate (Annexure P-4), duly issued by the Department of Transport, GNCT of Delhi.

3. The petitioner moved an application before the learned trial Court seeking release of the Mercedes-Benz vehicle on *superdari* claiming that the same was sold to him by the original owner-Jai Mehendiratta. However, this application was dismissed by the learned trial Court vide impugned order dated 10.09.2024 (Annexure P-5) on the grounds that its registered owner was Jai Mehendiratta and it was used for the commission of an offence under the NDPS Act.

4. Learned counsel for the petitioner *inter alia* contends that though Jai Mehendiratta was the registered owner of the vehicle in question but the petitioner had already purchased the same from him as evident by the No Objection Certificate dated 15.12.2022 (Annexure P-4) wherein, the name of the transferee is clearly mentioned as Rajveer Singh i.e. the present petitioner. He further submits that it is not a rule of thumb that a vehicle has to be released on *superdari* only to its registered owner when it is shown to the Court that for all intents and purposes, it was the present petitioner, who was the owner of the



vehicle in question. In this regard, he placed reliance on the judgment rendered by this Court in *Nirmal Singh Vs. State of Punjab 2007(1) R.C.R.(Criminal) 986*, wherein, this Court allowed release of a vehicle on *superdari* even though the petitioner therein was not its registered owner. He further submits that the case of the petitioner is squarely covered by the aforementioned judgment and relies upon Annexures P-3 and P-4 to contend that in fact, the Transport Department, Delhi has already issued a No Objection Certificate in favour of the petitioner with regard to transfer of the vehicle in question to him, on the basis of the documents submitted by him before the authority concerned.

5. *Per contra* learned State counsel opposes the prayer of the petitioner and submits that 1 kg of opium was recovered from the vehicle in question, as such, it cannot be released on *superdari*.

6. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that there is no provision under the NDPS Act that debars the release of a vehicle used in the commission of the offence on *superdari*. In fact, keeping the said vehicle in the Police Station for long period will render it unworthy of use.

7. A two Judge bench of the Hon'ble Supreme Court in judgment passed in *Bishwajit Dey Vs. The State of Assam 2025(1) R.C.R (Criminal) 486* has categorically held that a vehicle seized in the commission fo an offence under the NDPS Act can be released on *superdari* during the pendency of trial.

Speaking through Justice Manmohan, the following was held:

“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)."*

Further, a two Judge bench of the Hon'ble Supreme Court in ***Sunderbhai Ambala Desai Vs. State of Gujarat (2002)10 SCC 283***, speaking through Justice M.B. Shah, opined as follows:

"17. 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."

8. Additionally, a Division Bench of this Court in ***Gurbinder Singh @ Shinder Vs. State of Punjab 2016(4) R.C.R (Criminal) 492***, speaking through Justice M. Jeyapaul, observed as follows:

*"21. In the above facts and circumstances, 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 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." (emphasis added)*

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."

Reliance in this regard can also be placed on the judgment rendered by this Court in ***Satnam Singh Vs. State of Punjab*** in the case



bearing No. **CRR No. 2412-2019** decided on 16.02.2021.

9. In view of the aforesaid discussion, the present petition is allowed and the impugned order dated 10.09.2024 passed by the learned Additional Sessions Judge, Sri Muktsar Sahib is hereby set aside. The vehicle bearing registration No. DL-10-CG-0375 is ordered to be released on *superdari* to the petitioner, on furnishing *superdarinama* to the satisfaction of the learned trial Court.

10. 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. The petitioner must also furnish a specific undertaking for production of such vehicle, if called for, during the trial.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

18.02.2025

Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No