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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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**CRR-1762-2019 (O & M)
Reserved on: 26.08.2025
Date of decision:28.08.2025**

Neelam Sharma and ors. Petitioners

V/s

Narcotic Control Bureau, Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parmod Bhardwaj, Advocate,
for Mr. Agam Jund, Advocate, for the petitioner.

Mr. Sourabh Goel, Spl. Public Prosecutor with
Ms. Deify Jindal, Advocate, for the respondent.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the order dated 20.02.2019 passed by the Court of Special Judge (NDPS), Fatehgarh Sahib in a complaint case NCB Crime No. 06/2014 dated 16.02.2014, under section 8, 18 & 60 of NDPS Act 1985, Narcotic Control Bureau, Sector 25 Chandigarh, Zonal Unit, whereby two applications, one for superdari filed by the petitioners and one for confiscation of car filed by respondent has been decided by a single order and which is liable to be set aside being unsustainable.

2. The brief facts of the case are that one Kuldeep Sharma (since deceased) was arrested on 16.02.2014 for the illegal possession and transportation of 7.040 kgs. of opium which was seized from a car. On



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conclusion of the investigation, a complaint bearing NCB Crime No.06/2014 dated 16.02.2014 under Sections 8, 18 & 60 of the NDPS Act, 1985 was filed by the respondent before the Court of Special Judge, Fatehgarh Sahib. A copy of the complaint is attached as Annexure P-1 to the petition. During the Trial, Kuldeep Sharma expired on 08.06.2016 while in custody. The Trial proceedings were dropped/abated on 22.09.2016 upon his death.

3. On 05.07.2016, an application for confiscation of the white coloured Volkswagen Vento Car bearing No.PB-11AT-0026 was filed under Section 60(3) of the NDPS Act.

4. On notice, a reply was filed by the petitioners being legal heirs of the deceased-Kuldeep Sharma. Simultaneously, another application was filed by the petitioners claiming themselves to be Class-I legal heirs of the deceased-Kuldeep Sharma and prayed for the release of the said car alongwith certain other articles belonging to the deceased on the grounds that the deceased-Kuldeep Sharma had expired on 08.06.2016 and the Trial stood abated qua him.

5. The aforementioned applications came to be decided vide impugned order dated 20.02.2019 passed by the Special Judge (NDPS), Fatehgarh Sahib wherein the claim of the petitioners was rejected and the application for confiscation of the vehicle in question was allowed.

6. It is the aforementioned order dated 20.02.2019 which is under challenge in the present petition.



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7. The learned counsel for the petitioners contends that the vehicle was in the ownership of Kuldeep Sharma who died while in custody. The Trial stood abated qua him on 22.09.2016. Once the Trial itself never took place on account of the death of the accused-Kuldeep Sharma, the question of confiscation of the vehicle does not arise. Therefore, the same is liable to be released to the petitioners who are admittedly the Class I legal heirs of the deceased-Kuldeep Sharma.

8. The learned counsel for the respondent-NCB, on the other hand, contends that the vehicle was confiscated under Section 60(3) of the NDPS Act. Therefore, the vehicle is liable for confiscation. Whether the accused is convicted, acquitted or discharged, the only requirement in law is that the person who claims to be the owner thereof has a right of hearing prior to confiscation. In the instant case, the petitioners were given an opportunity of hearing after which the confiscation took place. Therefore, the present petition is liable to be dismissed.

9. I have heard the learned counsel for the parties.

10. Before proceeding further, it would be apposite to refer to the provisions of Section 60 and 63 of the NDPS Act which are reproduced hereunder:-

Section 60 of the NDPS Act: Liability of illicit drugs, substances, plants, articles and conveyances to confiscation. 2[(1) Whenever any offence punishable under this Act has been committed, the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant, materials, apparatus and utensils



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in respect of which or by means of which such offence has been committed, shall be liable to confiscation.]

(2) Any narcotic drug or psychotropic substance ³[or controlled substances] lawfully produced, imported inter-State, exported inter-State, imported into India, transported, manufactured, possessed, used, purchased or sold along with, or in addition to, any narcotic drug or psychotropic substance ⁴[or controlled substances] which is liable to confiscation under sub-section (1) and the receptacles, packages and coverings in which any narcotic drug or psychotropic substance ⁵[or controlled substances], materials, apparatus or utensils liable to confiscation under sub-section (1) is found, and the other contents, if any, of such receptacles or packages shall likewise be liable to confiscation.

(3) Any animal or conveyance used in carrying any narcotic drug or psychotropic substance ⁶[or controlled substances], or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.

Section 63 of the NDPS Act: *(1) In the trial of offences under this Act, whether the accused is convicted or acquitted or discharged, the court shall decide whether any article or thing seized under this Act is liable to confiscation under section 60 or section 61 or section 62 and, if it decides that the article is so liable, it may order confiscation accordingly.*

(2) Where any article or thing seized under this Act appears to be liable to confiscation under section 60 or section 61 or section 62, but the person who committed the offence in connection therewith is not known or cannot be found, the court may inquire into and decide such liability, and may order confiscation accordingly:



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Provided that no order of confiscation of an article or thing shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim:

Provided further that if any such article or thing, other than a narcotic drug, psychotropic substance ¹[controlled substance], the opium poppy, coca plant or cannabis plant is liable to speedy and natural decay, or if the court is of opinion that its sale would be for the benefit of its owner, it may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

11. While it is apparent that a vehicle can be confiscated under Section 60(3) of the NDPS and that the confiscation can take place where the accused is convicted, acquitted or discharged, the Act is silent as to whether or not a vehicle can be confiscated in a situation wherein the accused who was using the said vehicle for transportation of contraband has passed away and proceedings/Trial qua him stand abated.

12. Apparently, Sections 60(3) and Section 63(1) of the NDPS Act would envisage a situation where the Trial has taken place and there is a judgment of conviction or acquittal. Yet another situation is contemplated wherein an accused is discharged. In each of these situations, the vehicle can be confiscated subject to hearing to be accorded to a person claiming a right over the same. However, in the instant case, as the Trial itself never took place on account of the death of the accused-Kuldeep Sharma, the question of confiscation would not arise.

13. In view of the above discussion, I find considerable merit in the present petition. Therefore, the order dated 20.02.2019 passed by the Court

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of Special Judge (NDPS), Fatehgarh Sahib inasmuch as it has ordered confiscation of the vehicle in question stands quashed. The vehicle (Volkswagen Vento Car) bearing No.PB-11AT-0026 is ordered to be released on *superdari* to the petitioners on furnishing *superdarinama/superdari* bonds to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate/Special Judge, Fatehgarh Sahib.

14. The present petition stands disposed in the above terms.

15. The pending application(s), if any, shall stand disposed of accordingly.

August 28, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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