

2025:PHHC:095882



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

125

CRM M-35486 of 2025

Date of Decision: 17.07.2024

Juber

...Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Sanyam Khetarpal, Advocate, for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of the B.N.S.S., 2023 with a prayer to quash the impugned order dated 06.06.2025 (Annexure P-6) passed by the Court of Additional Sessions Judge, Palwal and the order dated 02.06.2025 (Annexure P-4) passed by the Court of learned Additional Chief Judicial Magistrate, Palwal, whereby, the application for releasing the vehicle bearing registration No. HR-27-B-9623 filed by the petitioner was ordered to be dismissed, which was confiscated in case FIR No. 05 dated 07.01.2025 registered under Sections 5/13(2)/17 of Haryana Gauvansh Sanrakshan and Gaursamvardhan Act, 2015 and Section 11 of Prevention of Animals Cruelty Act, 1960 at Police Station Hathin, District Palwal.

2. Learned counsel for the petitioner contends that in the present case, the FIR was registered against Vakil and Rashid, co-accused on the basis of the statement made by Deve son of Bhola and the same has been reproduced below:-

“To, In-charge, Police Post Mandkola Subject - To register a criminal complaint against cow smugglers. Respected Sir, It is humbly submitted that I, Deve, son of Bhola, resident of Mandkola, Police Station Hathin, District Palwal, am a member of the Gau Raksha Dal (Cow Protection Group). Today, I, along with my fellow Gau Raksha Dal member Sonu, son of Pushpender Singh, resident of Jukdiya Mohalla, Police Station City, District Palwal, was present on Salani Road in vehicle Bolero HR-26-CZ-8304 belonging to the Gau Raksha Dal when a secret informer informed us that Vakil, son of Zafar, and Rashid son of Hassan Khan, and Kamil son of Ishaq, residents of Uttawad, Police Station Uttawad, District Palwal, who are involved in cow slaughter business, have stuffed cattle tightly into vehicle number HR-26-CZ-8304 Bolero and are taking them to sell for cow slaughter via Khedli Jeeta road towards Rajasthan. Upon this information, I informed the Police Post Mandkola from my personal mobile number, and acting upon the information, you arrived at the spot, and along with me and my companion, a barricade was set up on the road from Khedla Jeeta towards Dhikrange. After some time, one vehicle was seen coming from Khedla Jeeta village side. When you signaled the vehicle to stop, the driver increased the speed of the vehicle. When the vehicle passed close by, I saw the number and found it to

be HR-26-CZ-8304 Bolero, which matched the information given by the informer. Thereafter, we along with you chased the above vehicle. Seeing us chasing, the driver further increased the speed of the vehicle. The vehicle collided with a tree standing on the roadside and three persons tried to run away from the vehicle. During this, with your help, we apprehended the said persons who had sustained injuries while falling during their escape. When we asked their names and addresses, the three persons revealed their names as Vakil, son of Zafar, and Rashid, son of Hassan Khan, both residents of Uttawad, Police Station Uttawad, District Palwal, and along with them Kamil, son of Ishaq, resident of the same. When we checked the vehicle, it was found to be tightly packed with two cattle. I have handed over my complaint to you, and you have taken the Bolero vehicle and the said two cattle in your possession as case property through seizure memo. Thereafter, I and my companion Sonu have signed our signatures. You are requested to take strict legal action against the accused of Bhola persons. Sd/- Deve, son Resident of Mandkola, Police Station Hathin, District Palwal Mobile No. 7988963075.”

3. After the registration of the FIR, the petitioner was also falsely involved in the present case. The petitioner applied for grant of concession of anticipatory bail and vide order dated 18.02.2025 (Annexure P-3), he was granted the benefit of concession of anticipatory bail, by Addl. Sessions Judge, Palwal.

4. Learned counsel further contends that the petitioner is the owner of the vehicle bearing registration No. HR-26-CZ-8304, whereas the actual registration of the vehicle is HR-27-B-9623. Still further, the vehicle was being driven by Vakil, driver of the petitioner and the petitioner was not aware of the fact that the vehicle was being used for committing an offence. Learned counsel further contends that ultimately the petitioner filed an application for releasing the vehicle in question before the Court of Additional Chief Judicial Magistrate, Palwal. However, vide the impugned order dated 02.06.2025 (Annexure P-4), the Court of ACJM, Palwal, dismissed the said application. In the meantime, vide order dated 19.05.2025, the vehicle bearing registration No. HR-27-B-9623 was ordered to be confiscated and also declared permanently forfeited by the Sub-Divisional Magistrate, Hathin. Even the said order has been passed without the knowledge of the petitioner and without issuing any notice to him. Learned counsel further submits that the vehicle in question has been wrongly confiscated and may be ordered to be released in his favour.

5. A reply by way of an affidavit of the Deputy Superintendent of Police, Hathin, District Palwal, has been filed on behalf of the respondent-State of Haryana and the same is taken on record.

6. Learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that the vehicle has been rightly confiscated by the respondent in view of Sections 17(1)

and 17(2) of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and the present petition is liable to be dismissed by this Court.

7. I have heard learned counsel for the parties and perused the record.

8. There is no dispute that the petitioner is lawful owner of the vehicle bearing registration number HR-27-B-9623, which is lying in the police station in the present case. Even, the said vehicle was taken into possession by the police and no useful purpose is going to be served by keeping in view the seized vehicle in police station for a long period. Even otherwise, the offence is triable exclusively by the Court of Magistrate and the conclusion of the trial may take quite a long time.

9. 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."

10. 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 **Azhar Husain's** case (supra), 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."

11. Thus, in the humble opinion of this Court, upon consideration of the aforesaid facts, it may be appropriate to order release of seized vehicle on *superdari* in favour of its registered owner.

12. Resultantly, the petition is allowed and the impugned order dated 02.06.2025 (Annexure P-4) passed by the Court of Additional Chief Judicial Magistrate, Palwal and the impugned order dated 06.06.2025 (Annexure P-6) passed by the Court of Additional Sessions Judge, Palwal, are hereby set aside. The seized vehicle is hereby directed to be released on *superdari* to its registered owner-petitioner, on furnishing *superdari* bonds, subject to the satisfaction of the Trial Court/Duty Magistrate/SDJM concerned.

17.07.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

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