

Dharampal Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Nov. 1, 1999

Citation: (2000) 1 AICLR 37 : (2000) 1 RCR(Criminal) 189

Hon'ble Judges: K.S.Kumaran, J

Advocate: Jatinder Dhanda, Sandeep Suri, Advocates for appearing Parties

Judgement

K. S. Kumaran, J.

1. This is an application under Section 482 Cr.P.C. for the release of vehicle bearing No. HR17/0441 concerned in F.I.R. No. 333 dated

27.9.1998 registered at Police Station Ratia under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985.

2. As per the allegations in the F.I.R. in the abovesaid vehicle 12 bags each containing 40 kg of poppy husk was allegedly found. The allegation is

that the petitioner himself was driving the vehicle at that time. The vehicle in question was seized. The petitioner filed an application before the

Judicial Magistrate Ist Class, Fatehabad, for the return of the vehicle on surety (Superdari) but the learned Magistrate dismissed the said

application on the ground that the vehicle in question is involved in case which is exclusively triable by a Court of Session. The petitioner filed a

Criminal Revision before the Sessions Court, Hisar, and the learned Additional Sessions Judge, Hisar, dismissed his petition in view of the

provisions contained in Section 60 of the N.D.P.S. Act that the vehicle used for transporting the narcotics shall not be released until the Court is

satisfied that the owner of the vehicle was innocent or had no knowledge regarding the commission of the offence.

3. That is why the petitioner has approached this Court with this petition.

4. I have heard the counsel and have perused the record on file. Of course the learned counsel for the State wanted an adjournment on the ground

that he was unable to argue the case since the case file was not with him, but adjournment was refused, as sufficient opportunity had been given.

5. The learned counsel for the petitioner contends that the petitioner has been granted bail and if the vehicle is not released, the value and utility of

the vehicle will deteriorate in view of the fact that there is no proper place for keeping the vehicle in good condition. But even according to the

learned counsel for the petitioner, the petitioner has been released on bail in view of the fact that the charge sheet had not been filed within 90 days.

Therefore, it is not as if the petitioner has been released after hearing his application on merits. Further, as rightly pointed out by the learned

Additional Sessions Judge, subsection (3) of Section 60 of the Narcotic Drugs & Psychotropic Substances Act, 1985 specifically provides that

any conveyance used in carrying any narcotic drug or psychotropic substance is liable to confiscation unless the owner of the conveyance proves

that it was used without the knowledge or connivance of the owner and that the person in charge of the conveyance had taken all reasonable

precautions against such use. In the present case, the petitioner himself was driving the vehicle at the time of the alleged occurrence. There is

nothing to show at this stage, that the vehicle in question was used for carrying the Narcotic Drugs & Psychotropic Substance without his

knowledge or connivance or that he had taken all reasonable precautions against the misuse. Therefore, unless the petitioner is able to establish

these factors, the vehicle in question is liable to be confiscated and cannot be returned on superdari, at this stage. The learned counsel for the

petitioner relies upon the decision of the Hon'ble supreme Court in State of Madhya Pradesh v. Rameshwar, 1990(2) RCR 604 (SC) and a

decision of this Court in Balwinder Singh v. State of Punjab, 1998(1) RCR 45, in support of his contention that the vehicle can be released on

superdari. But both the cases cited by the learned counsel for the petitioner relate to offence under the Essential Commodities Act, 1955.

Therefore, these decisions will be of no help to the petitioner in view of the specific provisions contained in Section 60 of the N.D.P.S. Act.

Therefore, the vehicle cannot be ordered to be released on superdari to the petitioner at this stage.

6. Resultantly, the petition is dismissed.

7. However, the trial Court will make all earnest efforts to dispose off the case as early as possible.