

(2013) 08 P&H CK 0917

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Miscellaneous No. M-26383 of 2013

Desa Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Aug. 31, 2013**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 379

Hon'ble Judges: Daya Chaudhary, J**Bench:** Single Bench**Advocate:** Vikasdeep Singh, for the Appellant; Premjit Singh Hundal, AAG, Punjab, for the Respondent**Final Decision:** Allowed

Judgement

Daya Chaudhary, J.

The present petition has been filed u/s 482 Cr.P.C. for setting aside order dated 16.7.2013 passed by Additional Sessions Judge, Tarn Taran as well as order dated 9.5.2013 passed by Chief Judicial Magistrate, Tarn Taran, whereby, an application filed by the petitioner for release of vehicle Eicher Tractor bearing registration No. PB61-4418 along with trolley on sapurdari, has been dismissed. Learned counsel for the petitioner contends that both the Courts below have not given any specific reason for not releasing the vehicle on sapurdari inspite of the fact that the police has also given no objection. Learned counsel further submits that in case the vehicle is kept in the police station, the condition of same will be deteriorated and the same would become unfit for driving. Learned counsel also submits that all documents pertaining to the ownership of the vehicle have been supplied to the police and the petitioner is ready to furnish adequate security before the lower Court. Learned counsel has also relied upon the orders passed by this Court in Crl. Revn. No. 1757 of 2013 decided on 11.7.2013 titled as Bakshish Singh Vs. State of Punjab and Crl. Revn. No. 1767 of 2013 decided on 11.7.2013 titled as Sahib Singh Vs. State of

Punjab.

3. Learned counsel for the respondent-State has not disputed the ownership of the vehicle in dispute.

4. Admittedly, FIR No. 45 dated 16.4.2013 u/s 21(1) sub section 2,3,4 of Mining Mine and Minerals Act, 1957 and Section 379 IPC was registered at Police Station Goindwal Sahib against petitioner-Desa Ram and one Satnam Singh and two tractor trolleys were confiscated by the police. Petitioner-Desa Singh being owner of the said tractor trolley moved an application for release of the same. A report was also called from SHO, Police Station Goindwal. The police authorities have given their no objection in releasing the vehicle on sapurdari but inspite of that an application moved by the petitioner has been dismissed by CJM, Tarn Taran. Thereafter a revision was filed before Additional Sessions Judge, Tarn Taran, which was also dismissed. Orders passed by both the Courts below are subject matter of challenge in the present petition.

5. Undisputedly, the petitioner is owner of the vehicle in dispute and an application has been moved for releasing tractor trolley on sapurdari, which was dismissed. The vehicle is lying parked in the police station and no purpose is going to be served by keeping the same in police station as not only condition of the vehicle will be deteriorated but the same would also become unfit for driving. In case, the vehicle is not released to its original owner, there will be no proper care and maintenance of the same. In similar circumstances as has been mentioned above, the vehicles have been released on sapurdari. Accordingly, the present petition is allowed. Tractor Trolley bearing registration No. PB61-4418 is ordered to be released on sapurdari to the petitioner, who is the registered owner, subject to his furnishing the requisite bond to the satisfaction of the Area Magistrate. The petitioner shall also furnish an undertaking before the lower Court that the tractor trolley shall not be used in future for illegal mining and in case, the same is required for some inquiry or otherwise, the same will be produced before the Court.