

(1986) 08 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No. 903 of 1986. Criminal Miscellaneous No. 4358 of 1986 (O and M)

Hari Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 20-08-1986

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 20

Citation : (1986) 08 P&H CK 0001

Hon'ble Judges : M.M. Punchhi, J

Bench : Single Bench

Advocate : S.S. Rathore, for the Appellant; Mahesh Grover, for the Respondent

Final Decision : Allowed

Judgement

Madan Mohan Punchhi, J.—This is a revision petition against the order of Shri S.C. Jain, Additional Sessions Judge, Karnal, whereby the

Petitioner was denied sporadic of his car which is case-property in a crime reported u/s 20 of the Narcotic Drugs and Psychotropic Substances

Act, 1985.

2. The Petitioner, who claims himself to be the registered owner of the car DHB-5727, Premier Padmini by make, while driving the car, was found

to be committing offence u/s 20 of the aforesaid Act. On arrest of the Petitioner, the car was taken over by the investigating agency and is now

stately lying at Police Station, City Karnal. The Petitioner apprehends misuse thereof and deterioration if not used. The learned Judge rejected the

prayer of the Petitioner twice and this petition is against the second order.

3. The view taken by the learned Judge was that the Parliament has taken a serious view over the problem of narcotics and has thus designedly

made the law stringent by enactment of the aforesaid Act.

4. It is true, as has been pointed out by the learned Counsel for the Petitioner, that the vehicle is liable to confiscation if the Petitioner is found

guilty. The power of confiscation noticeably was there even under the Opium Act and has been retained under the new Act. But, merely that the

vehicle is liable to confiscation is no ground to assume that it will be confiscated. So, the release of the property would be regulated in accordance

with the well settled judicial ways and not because the law has become stringent in the matter of punishment. Thus, the impugned order of the

learned Additional Sessions Judge, Karnal, is set aside and the matter is remitted back to him to release the car in favour of the Petitioner subject

to his fulfilling the following conditions: -

1. He is the registered owner of the car ;

2. It shall be supported by an affidavit that he alone is the owner of the car and none else ;

3. He shall execute a requisite bond in a sum equivalent to the approximate value of the car, plus another sum of Rs. 10,000/- over and above that,

before obtaining the delivery of the car ; and

4. He shall execute such other bonds and give such other undertakings as are required for production of the car as case-property whenever

directed by the Court.

5. This petition is thus allowed on the aforesaid terms.

6. The parties through their counsel are directed to put in appearance before the learned Additional Sessions Judge, Karnal, on 1st September,

1986.