

CRM 334-2023 State of Punjab vs. Upinder Kumar .

FIR No. 63 dated 07.09.2023
Us-61-1-14 Punjab Excise Act
Police Station- Talwara
District- Hoshiarpur.

Present: Applicant namely Manoj Kumar represented by Sh. S. Jassal
Advocate.
Learned APP for the State.

Heard on the application for release of one Motor Cycle Passion Pro, bearing Registration No. HP-36B-5969 mentioned in the application to the applicant on Sapurdari.

Report of concerned SHO called. Report of SHO Police Station-Talwara received and perused. As per report of the SHO, vehicle in question was recovered by the police in above said FIR and it belongs to the applicant Manoj Kumar and the local police has no objection if the above said vehicle is released on sapurdari.

Reply by the learned APP for the State filed by controverting all the averments mentioned in the applicant and hence prayer is made to dismiss the application.

In view of the report of the concerned SHO and in view the documents placed on record by the applicant and in the interest of justice, this court is of the considered view that the completion of trial may take some time and no useful purpose would be served by keeping the case property in the police station. It will be vulnerable to deterioration by natural forces and human acts. Moreover, it has been held by the Hon'ble Supreme Court of India in "**Sunderbhai Ambalal Desai Vs. State of Gujarat**" 2003 AIR (SC) 638 that case property should not be kept in Malkhana for indefinite time and must be handed over to the rightful claimant. In case titled as "**Arshdeep Singh Vs. State of Punjab, 2021 SC Online P&H 437**" Hon'ble Punjab & Haryana High Court has pleased to waive off the condition of furnishing additional security in the form of cash Security or Bank guarantee in accordance with Section 78 of Punjab excise Act, Thus, no order for furnishing of additional security in view of Section 78 of the Act is being passed.

Hence, it is ordered that the vehicle in question is ordered to be released