IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.15667 of 2017 (O&M)
Date of Decision: 05.04.2018

Dharmender

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Bipan Ghai, Senior Advocate assisted by
Mr. Vishavjit S. Virk, Advocate for the petitioner.

Mr. Vikas Chopra, Deputy Advocate General, Haryana
for the respondent/State.

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MAHABIR SINGH SINDHU, J. (Oral)

Present petition under Section 482 Cr.P.C. has been filed for setting aside the order dated 21.03.2017 (**Annexure P-2**), passed by learned Additional Sessions Judge, Panipat and order dated 02.02.2017 (**Annexure P-1**), passed by learned Additional Chief Judicial Magistrate, Panipat, vide which the learned Courts below have refused to release of 3652 Boxes of English Wine and 4688 Boxes of Beer, which were seized in case FIR No.753 dated 03.07.2016, under Sections 61/1/14 of the Punjab Excise Act and Sections 420, 467, 471 and 120-B of the Indian Penal Code, registered at Police Station Chandni Bagh, Panipat.

This Court, vide order dated 11.08.2017, passed the following order:-

> *" Learned counsel for the petitioner submits that the claim for release on supardari is restricted to 3652 bottles as according to him the petitioner possesses the necessary bills and required documents. He further fairly states that he does not make any claim in respect of 6241 bottles. The petitioner does not have at present the documents or ownership claim documents. Therefore, the bottles in respect of which he possesses documents should be released.*

Learned State counsel is directed to verify these facts and make a report from the Excise Department on the next date of hearing. The report shall be put up upon physical verification of documents and the bottles.

Learned State counsel to make statement as to the legal position for dealing with the bottles which were unauthorized in the sense that they could be sold only in the State of Arunachal Pradesh and not in the State of Haryana and as to how the said case property will be dealt with. The State counsel should also clarify whether the said property could be auctioned by the State since looking to the nature of the articles.

Put up on 24.08.2017 for compliance.

Counsel for the petitioner to submit the documents to the concerned officers. ”

On 11.01.2018, this Court passed the following order:-

“ *Mr. K.C. Kamboj, AETO (Excise) , Panipat, is present in the Court and he has stated that only 3642 cases of liquor have been found to be in proper condition and out of them only 1249 cases pertains to IMFL brands namely Royal Arm Real Whisky & Ginnies Fine Whisky, holograms, but rest of the cases are not able to be identified.*

There is no dispute that total boxes i.e., 18746 were recovered in the present case and therefore the entire cases need to be verified.

Excise and Taxation Commissioner, Panipat to give the report of each and every boxes before the next date hearing.

Adjourned to 06.02.2018. ”

Status Report by way of affidavit dated 02.04.2018 of Sh. Alok Passi, Deputy Excise & Taxation Commissioner (Excise), Panipat on behalf of the respondent/State has been filed. The same is taken on record. Copy supplied to the opposite side.

Learned Senior Counsel has confined his prayer only to the extent of the liquor cases/boxes and he has given up his plea regarding the Beer boxes, which according to the affidavit, stands expired for human consumption.

Paragraph 3 of the affidavit clearly reveals that the physical stock of liquor has been verified and out of total stock, 929 cases of Magic Moment; 1442 cases of Aristocrat Premium and 112 cases of Aristocrat Whisky were found to be genuinely procured.

In view of the fact that the liquor is legally purchased against the valid bill(s) and reference is made to Page 27 (P-7 Colly.) and this fact is duly acknowledged by learned State Counsel, on instructions from Sh. Alok Passi, Deputy Excise & Taxation Commissioner (Excise), Panipat and thus the same deserve to be released on *Supardari* subject to the final outcome of the trial.

In view of above, the respondents are directed to release the liquor only, mentioned above, to the petitioner on production of valid license/permit in his favour against heavy surety to the satisfaction of the learned trial Court against proper receipt and identification, with the further direction to the petitioner to produce the same in the court as and when required by the learned trial Court. It is made clear that in case the sample has not already been sent, the same be drawn as per law and be sent to the concerned Chemical Analyzer so that the appropriate report can be obtained. Due care be taken while returning the entire stock on *Supardari* and necessary *Panchnama* be also done.

This order be not construed as an expression of opinion on the merits of the case.

Disposed off accordingly.

April 05, 2018 **(MAHABIR SINGH SINDHU)**
Gagan **JUDGE**

Whether speaking/reasoned	*Yes*
Whether Reportable	*Yes*