

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-41269 of 2017

Date of Decision: January 29, 2018

Pernod Ricard India (P) Limited

.....Petitioner

versus

State of Haryana

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Ms. Alka Sarin, Advocate
for the petitioner

Mr. Munish Sharma, AAG Haryana

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Sudhir Mittal, J. (Oral)

The petitioner challenges the order dated 17.10.2017 (Annexure P-6), passed by the Judicial Magistrate First Class, Indri, whereby, the application for release of goods on superdari, has been rejected.

2. The necessary facts are that the petitioner is in the business of manufacture, sale and import of various kinds of alcoholic beverages. An order for 1100 cases of Imperial Blue Authentic Grain Whisky, was placed on it by a firm named as M/s A.V. Traders, Jalandhar, in September 2017. The said firm is L-1 Licence holder. Pursuant to placing of the order, the said firm applied for and obtained Form L-32 dated 28.9.2017, a copy of which has been placed on record as Annexure P-1. On receipt of the said Form, the petitioner despatched the consignment on 6.10.2017 and the goods receipt has been placed on record as Annexure P-3. The petitioner is located at Derabassi and the consignment was to move towards Jalandhar but instead the driver took the vehicle towards Karnal where he was intercepted by the police. An FIR No. 0423 dated 7.10.2017, was

Excise Act, 1914 read with Section 420 IPC. The consignment was confiscated and is lying in the police custody. The petitioner moved an application dated 10.10.2017 (Annexure P-5) for release of its consignment but the same has been rejected by the impugned order on the ground that the consignment is a case property and that it is required to be preserved.

3. Learned counsel for the petitioner contends that Section 457 Cr.P.C. enables the petitioner to obtain possession of its consignment. It is submitted that a sample has already been taken by the police for chemical examination and that no useful purpose is being served by retaining the property in the police station. She relies on judgment of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai vs. State of Gujarat, 2003(1) RCR(Criminal) 380*** to contend that large quantity of liquor should not be retained in the Police Station for a very long period.

4. Learned State counsel on instructions from ASI Satyawar also admits that sample has been taken for chemical examination.

5. In view of the above, no useful purpose would be served by retaining the consignment in the Police Station especially when sample has already been retained for chemical analysis. The judgment ***Sunderbhai Ambalal Desai (supra)*** is squarely applicable to the facts of this case. Accordingly, the petition is allowed; impugned order dated 17.10.2017, passed by the JM/JMIA Magistrate, Indri, is set aside and the consignment (1100 cases of Imperial Blue Authentic Grain Whisky), is ordered to be released on Superdari, on furnishing the requisite superdari bond to the satisfaction of trial court/JM/JMIA Magistrate, Indri, District Karnal after preparation of panchnama (if not already prepared).

January 29, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No