

CRM-M-12972-2019
WITH CRM-M-15089-2019

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

257

CRM-M-12972-2019
Date of decision : 23.05.2019

SHAMSHER SINGH

.....Petitioner

Versus

STATE OF HARYANA

...Respondent

WITH CRM-M-15089-2019
Date of decision : 23.05.2019

SAT PAL

.....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Aditya Sanghi , Advocate
for the petitioner(s)
in CRM-M-12972-2019 .

Mr. Ramesh Kumar Dhaniaya, Advocate
for the petitioner(s)
in CRM-M-15089-2019.

Mr. Deepak Gerewal, DAG, Haryana
for the respondent-State assisted by HC-Raj Kumar.

ARVIND SINGH SANGWAN, J (ORAL)

Reply by way of affidavit of Amarjeet Kataria, HPS, Deputy Superintendent of Police, Hisar on behalf of respondent-State of Haryana in CRM-M-12972-2019 has been filed in the Court today. The same is taken on record.

Petition under Section 482 Cr.P.C. for modification of orders dated 21.02.2019 (Annexure P-1) passed by learned Additional Sessions Judge, Hisar has been filed vide which the Additional Sessions Judge, Hisar, while allowing the revision petition filed by the petitioner(s) for

releasing the car bearing registration No. HR-32K-5249 in case titled as Shamsher Singh Vs. State of Haryana etc., (Hyundia Creta) and car No. HR20-AM-1062 in favour of the petitioner-Sat Pal, however a condition was laid down that both the petitioner(s) will furnish a bank guarantee of ₹ 8,00,000/- (rupees eight lakhs only) each for releasing the aforesaid vehicles on sapurdari.

Learned counsel for the petitioner(s) has argued that in fact the petitioner(s) are not in a position to furnish the guarantee on account of financial constraints and they are ready to furnish two solvent sureties of the equivalent amount and further submit that they will give undertaking before this Court that the registration certificate of the same vehicle(s) will remain in possession of the Court and petitioner(s) will not sell or alienate the cars by creating third-party interest.

Counsel for the petitioner also relied upon the judgment rendered in **State of Kerala Vs. A.A. Ali, 2018(4) R.C.R. (Criminal) 112.**, to submit that in similar case Hon'ble the Supreme Court of India has held that the Court should not insist for furnishing the bank guarantee in such like cases.

Learned State counsel on instructions from HC-Raj Kumar and on the basis of an affidavit filed in the Court by Amarjeet Kataria, HPS, Deputy Superintendent of Police, Hisar on behalf of respondent-State of Haryana in CRM-M-12972-2019 has submitted that the allegations on the petitioner(s) are that the company has cheated its depositors by inducing them that in case the depositors invest amount of ₹ 10,000/- then the

company will pay an amount of ₹ 1500/- per week and thus there are direct allegations of cheating against them in the FIR and the fraud is for more than 118 crores.

I have heard the counsel for the parties and also gone through the record of the cases. I find that though vide impugned order the revisional Court has ordered for releasing of the vehicle(s) in *superdari* in favour of the petitioner(s) however has laid down a condition to furnish a bank guarantee of ₹ 8,00,000/- (rupees eight lakhs only) each.

In view of the judgment rendered in *State of Kerala Vs. A.A. Ali (supra)*, these petitions are partly allowed and it is directed that instead of furnishing bank guarantee of ₹ 8,00,000/- (rupees eight lakhs only) each, two solvent sureties of the equivalent amount will be furnished and the petitioners will hand-over the registration certificate with the Investigating Agency along with an undertaking that the registration certificate of the same vehicle(s) will remain in possession of the Court and petitioner(s) will not sell or alienate the cars by creating third-party interest during the pendency of the trial.

A photocopy of this order be placed on the files of other connected case.

(ARVIND SINGH SANGWAN)
JUDGE

23.05.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No