

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-23596 of 2020

Date of Decision: 21.08.2020

GURWINDER SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioners.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

2. In this petition, the petitioner has assailed the order dated 13.03.2020 passed by the learned Addl. Sessions Judge, Patiala vide which the revision filed by the petitioner against the order dated 24.01.2020 passed by the Judicial Magistrate First Class, Rajpura was dismissed.

3. FIR No.72 dated 11.08.2019 under Section 51 of Excise Act, 1914 was registered against the four persons. Petitioner was not nominated in the FIR but the vehicle involved in the said FIR belongs to the petitioner. The vehicle was taken into possession by the Police. Accordingly, the petitioner filed

an application for release of vehicle i.e. Car Swift Desire bearing Regn. No.PB11CF-7437 on the ground of being the registered owner of the same. The vehicle was confiscated by the Police. The prayer for release of the vehicle on Superdari was made before the Judicial Magistrate First Class, Rajpura who accepted the application and ordered for release of vehicle on furnishing bank guarantee to the tune of Rs.5 lacs with one surety of the like amount for release of vehicle in question. But the petitioner was not in position to furnish the bank guarantee, therefore, he filed an application for permitting him to furnish surety / bail bonds instead of bank guarantee amounting to Rs.5 lacs. The said application was dismissed by the Judicial Magistrate First Class, Rajpura on the ground that the Court has no power to review the order dated 12.09.2019 and the said application was dismissed on 24.01.2020. Against the order dated 24.01.2020 passed by the Judicial Magistrate First Class, Rajpura, the petitioner preferred a revision petition before the Additional Sessions Judge, Patiala. The revision petition has also been dismissed on the ground that the court has no inherent powers under Section 482 Cr.P.C.

4. Mr. Ramandeep Sandhu, Sr. D.A.G., Punjab on instructions submitted that the order dated 5.8.2019 was reasonable as vehicle in question was involved in excise case.

Even though the petitioner is not named in the FIR but he being the registered owner is liable to furnish bank guarantee as ordered by the Judicial Magistrate First Class, Rajpura.

5. Having heard the learned counsel for the parties, I am of the view that the vehicle in question is about six years old. Due to financial constraints of the petitioner, it is not possible for him to furnish bank guarantee/ cash security in the sum of Rs.5 lacs. He can furnish surety bond to the tune of Rs.5 lacs to the satisfaction of the trial Court. Reference can be made to **Kulwant Singh Vs. State of Punjab, CRM-M-32708-2019 (O&M)** decided on 5.8.2019.

6. While exercising the powers under Section 482 Cr.P.C. the impugned orders are quashed. The petitioner is permitted to furnish solvent surety in a sum of Rs.5 lacs for the release of vehicle on Superdari to the satisfaction of the trial Court.

Petition stands disposed of accordingly.

August 21, 2020
Raman

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No