

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

**Criminal Revision No.543 of 2021
Date of Decision :02.09.2021**

CJ Darcl Logistics Ltd.

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. Anil Goel, Advocate for the petitioner.

Mr. H.S.Multani, AAG, Punjab.

**(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual Court)**

ARUN PALLI, J. :

The petitioner (**CJ Darcl Logistics Ltd.**) prays for revision and modification of the order dated 26.03.2021, passed by the learned Judge Special Court, Jalandhar, vide which though its application under Sections 451 and 457 of Cr.P.C. was allowed and the goods (840 bags of ABS Resins) were ordered to be released but subject to certain conditions, which the petitioner is aggrieved by and are alleged to be onerous.

The facts that are required to be noticed are limited.

The petitioner (**CJ Darcl Logistics Ltd.**) is engaged in the business of transportation of goods. Its services were hired by M/s Ineos Styrolution India Ltd. for transporting 840 bags of ABS Resins against their consignment note bearing No.BRD-34C-00519 dated 28.02.2021. However, upon recovery of contraband from the vehicle (HR-68-A-5148), in which the goods were being transported, it was seized by the police in FIR No.21 dated 05.03.2021, under Section 15/18-61-85 of NDPS Act, P.S. Division-2, Jalandhar, and the driver of the truck was arrested. For the owner/consignor

of the goods, vide letter of authority (Annexure-F on record of the trial Court) had authorized the petitioner, an application under Sections 451 and 457 of Cr.PC. was moved by the petitioner for release of the merchandise, for, it had nothing to do with the alleged offence and even the police did not require the same for investigation. Learned Judge Special Court, Jalandhar, vide order dated 26.03.2021, accepted the said application and the goods (840 bags of ABS Resins) were ordered to be released to the petitioner on its furnishing superdari bonds in the sum of Rs.10 lacs with one surety of the like amount. For, the petitioner failed to arrange any local surety, another application was moved to permit the petitioner to furnish bank guarantee equal to the amount of surety. Accordingly, vide order dated 07.04.2021, learned Judge, Special Court, modified the earlier order dated 26.03.2021, and allowed the petitioner to furnish personal bonds along with the bank surety for Rs.10 lacs. The personal/superdari bonds as also the bank guarantee furnished by the petitioner was duly accepted and attested by the Court. Whereafter, vide order dated 09.04.2021, passed by learned Additional District and Sessions Judge, the Station House Officer, Police Station Cantt. Jalandhar, was required to release the goods but subject to the conditions that petitioner shall not sell and change the identity of the goods and will produce them on each and every date of hearing till the final disposal of the case. This is how, aggrieved by the conditions that have been imposed, the petitioner, as indicated above, is in revision before this Court.

Notice was issued to the respondent-State and a response by way of affidavit of the Assistant Commissioner of Police Sub Div-V, Cantonment, Jalandhar has since been submitted.

Having heard learned counsel for the parties and perused the

record, this Court is of the considered opinion that the revision deserves to be allowed for the reasons that are being recorded hereafter.

Pursuant to an inter-state sale between two business entities, goods in question (840 bags of ABS Resins) were being transported from Baroda (Gujarat) to Baddi (Himachal Pradesh) in a commercial vehicle (HR-68-A-5148). However, upon recovery of contraband from the said vehicle FIR No.21 dated 05.03.2021, was registered, leading to arrest of its driver and seizure of the truck. Significantly, in the report submitted by the Investigating Agency before the trial Court, it stated in no uncertain terms that as the goods (840 bags of ABS Resins) were not made the case property, the same be released in favour of its owner. Likewise, even in the response submitted to the present revision, the State has reiterated its stand:-

“4. That said 840 bags of ABS Resins were not made case property and investigating officer while giving report in the Supardari Application filed by petitioner it has been stated that said 840 bags of ABS Resins are not required by the police as the same has not been case property.

6. That said 840 bags of ABS Resin are not required by answering respondent for further investigation.”

The specific case set out in paragraphs 5 and 8(a) of the revision and which has not been controverted in the response submitted by the State is that goods in question were not seized by the police. Upon being pointedly asked even the learned State counsel did not dispute this position.

Thus, what clearly emerge from the position, as sketched out above, is that goods in question were never seized by the police. And, for it was never made a case property, it had no relevance/concern with the trial of the said case. Therefore, in the given circumstances, imposition of such

onerous conditions or subject to which the goods/merchandise were released: **“you are hereby directed to release the above said articles 840 bags of ABS Resins. He be directed not to sell and change and identity of the same and to produce the same on each and every date of hearing till final disposal of the case”** were apparently erroneous and unjustified. Nothing is indicated either as regards the requirement/necessity and the purpose for which the goods/merchandise were still required to be preserved and produced on every date of hearing till the final decision in the matter. Thus, the only and the inevitable conclusion that could be reached: though the learned Judge, Special Court, noticed the stand of the State, clearly spelt out in its report, but yet missed it completely. Suffice it to say that the manner/approach with which the claim/interest of the petitioner was dealt with was insensitive.

In the wake of the above, the revision petition is allowed. The conditions subject to which the goods/merchandise were released are quashed. The orders dated 26.03.2021, 07.04.2021 and 09.04.2021 are accordingly modified. The goods/merchandise, if not already released, be released unconditionally. Likewise, the original bank guarantee furnished by the petitioner be set free and released.

The order be complied forthwith.

(ARUN PALLI)
JUDGE

02.09.2021
Manoj Bhutani

Whether speaking/reasoned	Yes
Whether reportable	No