

In virtual Court

CRM-M-18703-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18703-2020 (O&M)

Date of decision: 23.02.2021

Arshdeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Tribhawan Singla, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 24.06.2020, vide which the trial Court, while releasing the vehicle on superdari, directed to furnish personal superdari bond along with bank guarantee of Rs.2,50,000/-.

Learned counsel for the petitioner submits that the trial Court has put very stringent condition of furnishing bank guarantee on the petitioner, which is as good as payment in cash. It is further submitted that there is no such provision under Section 78 (2) of Excise Act to direct furnishing of bank guarantee, as in the interest of justice, the trial Court could have ordered

furnishing the security bond equivalent to value of the vehicle. It is also submitted that the vehicle is lying unused since 14.06.2019 and almost a period of one and half year has lapsed and with the passage of time, it will outlive its life, as it is lying parked in the police station in an open space. Since the petitioner is unable to furnish the bank guarantee of Rs.2.50 lacs, he is ready to furnish security bond and therefore, condition imposed in the impugned order dated 24.06.2020 may be substituted with the condition of furnishing security bond, for releasing the vehicle bearing registration No.PB-13AB-660 on superdari, which was confiscated in FIR No.108 dated 14.06.2019 under Section 61 of Punjab Excise Act, 1914 and Section 473 IPC.

Learned State counsel has supported the order passed by the trial Court, which is based on new policy issued by the Punjab govt. under Section 78 (2) of the Act, which provides that the vehicle cannot be released during the trial, as the same is liable to be confiscated, however, the Magistrate may give an option to pay an amount equal to the value of the vehicle on submission of security (in form of cash security or bank guarantee).

After hearing learned counsel for the parties, considering the hardship being faced by the petitioner that he is unable to get his vehicle released for the last one and half year and also in view of the fact that the vehicle is lying unused and parked in police station in an open space and may outlive its life, I deem it appropriate to substitute the condition of furnishing bank guarantee of Rs.2.50 lacs with furnishing of personal bond in a sum of Rs.2.50 lacs and additional security bond of Rs.2.50 lacs.

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Accordingly, this petition is allowed and the order dated 24.06.2020 passed by the trial Court is set aside.

With aforesaid modification, present petition stands disposed of.

**[ARVIND SINGH SANGWAN]
JUDGE**

23.02.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No