

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(120)

CRM-M-30691-2021
Date of decision: 03.08.2021

Satnam Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gopal Singh Nahel, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking modification of order dated 09.03.2021 (Annexure P-2) passed by the Ld. JMIC, Sunam in case FIR No. 16 dated 05.03.2021 registered for offence under Sections 61 and 78 of Punjab Excise Act, 1914 at Police Station Chhajli, District Sangrur in so far as the trial Court has directed furnishing of bank guarantee while accepting the application of the petitioner for release of the confiscated vehicle on sapurdari.

Counsel for the petitioner submits that a false FIR has been registered on the basis of secret information and one, Parampreet Singh, was

arrested and some recovery of country made liquor was effected from him. The petitioner being the owner of the vehicle, filed an application under Section 451 of Code of Criminal Procedure, 1973 for releasing the vehicle on sapurdari, which was allowed by the Magistrate, vide order dated dated 09.03.2021 (Annexure P-2) while requiring him to deposit of bank guarantee of Rs.4 lacs, besides sapurdari bonds of Rs.4 lacs. Counsel has placed reliance upon the judgment passed by Co-ordinate Bench of this Court in **CRM-M-18703-2020 titled as Arshdeep Singh versus State of Punjab**, decided on 23.02.2021 to contend that there is no provision under Section 78 (2) of the Punjab Excise Act, 1914 for directing furnishing of bank guarantee.

Notice of motion.

On asking of the Court, Mr. Sandeep Singh Deol, DAG, Punjab accepts notice on behalf of respondent-State. Upon instructions from ASI Pinjore Singh, he has opposed the petition and supported the order under challenge.

After hearing the counsel for the parties, this Court is of the view that the condition imposed by the trial Court regarding furnishing of the bank guarantee is harsh. Imposing of this condition, is as good as requiring payment in cash, which has been disapproved of by the Supreme Court in ***Keshab Narayan Banerjee and another versus State of Bihar AIR 1985 SC 166 and Sandeep Jain versus National Capital Territory of Delhi 2002 (2) SCC 66***. Such a condition has been held to be onerous, oppressive by different High Courts and it virtually amounts to denial of the relief.

Accordingly, the impugned order dated 09.03.2021 is modified and it is ordered that instead of furnishing the bank guarantee of Rs.4,00,000/-, the petitioner shall furnish a solvent surety of the like amount. In addition, the petitioner shall also furnish an undertaking before the trial Court to the effect that henceforth, the vehicle will not be used for any criminal activity. All other conditions imposed by the trial Court shall remain unaltered.

It is made clear that in case the petitioner violates any of the conditions, it shall be open to the prosecution to seek cancellation of the supardari bonds.

Petition is disposed of.

(SUVIR SEHGAL)
JUDGE

03.08.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No