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

**CRM-M-40006-2020
Date of Decision: 01.03.2021**

Daljit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. J.S. Dadwal, Advocate,
for the petitioner.

Mr. B.S. Sewak, Additional Advocate General, Punjab.

SUDIP AHLUWALIA, J. (ORAL)

The prayer in the present petition is to set aside or modify the impugned order dated 27.10.2020 (Annexure P-2), passed by Ld. JMIC, SBS Nagar, in case FIR No.44 dated 15.07.2020, under Sections 21(1) and 4(1) of Mines and Minerals (Regulation of Development) Act, 1957 (for short "the 1957 Act"), registered at Police Station Mukandpur, District SBS Nagar.

2. Reply by way of Affidavit of Deputy Superintendent of Police, Banga Sub Division, District Shaheed Bhagat Singh Nagar, filed on behalf of the Ld. State Counsel; Be kept on record.

3. Brief facts of the case are that while registering the aforesaid FIR the Police took into possession the vehicle, i.e. Tipper, bearing Registration No. PB 12 L 9785, which was loaded with sand, on the premise

that the driver/owner of the vehicle has committed an offence under the

1957 Act.

4. The petitioner moved an application before the Ld. JMIC, Shaheed Bhagat Singh Nagar, for releasing the same on '*Superdari*' on the ground that the petitioner is the owner of the vehicle in question and the same is no more required by the Police. The vehicle will lose its value and utility, if it remained lying in the custody of the Police for unduly long time.

5. Ld. Counsel further submits that his client has the only source of income by plying the aforesaid vehicle on rent, therefore, the vehicle should be released.

6. Ld. Counsel has further argued that with the passage of time, the life of tyres and engine of the vehicle be worn-out as it lying un-used and, therefore, it should be released.

7. Ld. Counsel further submits that the Ld. Court below has allowed the application for release of vehicle in question on '*Superdari*' vide order dated 27.10.2020 (Annexure P-2). It has also been noted in the said order that some administrative instructions are issued by the Secretary-cum-Director, Mines and Geology, Punjab, Chandigarh, dated 12.06.2020, on the basis of an order passed by National Green Tribunal that while releasing vehicles on '*Superdari*' the penalty amount as reflected in the said order is to be paid.

8. Ld. Counsel for the petitioner submits that his client is not in a position to pay the said amount and penalty, if any, is to be imposed at the time of final disposal of trial.

9. Ld. State Counsel could not dispute the above factual position. However, he submits that under the provisions of the 1957 Act, the Authority has power to confiscate and seize a vehicle which is used in

contravention of the same.

10. After hearing Ld. Counsel for the parties and considering other submissions, the matter at this stage is disposed off by modifying the condition in the impugned order, directing deposit of penalty amount by the accused on the judicial file. Such penalty, if required, shall be realised from the petitioner after completion of the trial. However, the other conditions imposed by the Ld. JMIC Ist Class, Shaheed Bhagat Singh Nagar, in its order (Annexure P-2) regarding furnishing of indemnity bonds in the sum of Rs.10 Lacs with two sureties of like amount, and the restrictions regarding change in condition of the vehicle, non-disposal of the vehicle in any manner and the undertaking to produce the same before the Court whenever ordered in this regard stand sustained.

11. Disposed off.

01.03.2021

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No