

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

**CRM-M No.3641 of 2022(O&M)
Date of Decision:- 16.05.2022**

Gurpreet Singh

....Petitioner

Vs.

State of Punjab

....Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Ms. Shweta, Advocate for
Mr. Gopal Singh, Advocate
for the applicant-petitioner.

Mr. HS Multani, AAG, Punjab

KARAMJIT SINGH, J.(Oral)

The petitioner, who is facing trial in criminal case having FIR No.289 dated 27.11.2021 registered under Sections 61, 69, 78/1/14 of Punjab Excise Act at Police Station Lehra, District Sangrur, has filed the present petition for modification of order dated 24.12.2021 (Annexure P-2) passed by the Court of JMIC, Moonak, vide which, the application of the petitioner for release of Swift Dezire Car bearing registration No.HR-26-BF-5219, has been allowed subject to furnishing bank guarantee in the sum of `2 lakh

with one surety in like amount subject to undertaking that the petitioner will not change its colour or its shape and produce the vehicle before the Court during the course of trial at his own responsibility without any special notice.

Counsel for the petitioner has argued that the condition regarding deposit of bank guarantee worth ` 2 lakh imposed by the trial Court is onerous and is liable to be set aside or modified. In support of his contentions, he referred to order dated 3.8.2021 passed in CRMM-30691-2021; Satnam Singh v. State of Punjab and order dated 23.2.2021 passed in CRM-M-18703-2020; Arshdeep Singh v. State of Punjab.

Present petition is contested by the counsel for the State by filing reply which is ordered to be taken on record while submitting that the aforesaid condition of bank guarantee was imposed by the trial Court in accordance with third proviso to sub section 2 of Section 78 of Punjab Excise Act, 1914 and thus, there is no illegality in 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 bank guarantee is harsh and oppressive and it virtually amounts to denial of the relief. Imposition of such condition has been disapproved by Hon'ble Supreme Court in Sandeep Jain v. National Capital Territory of Delhi; (2002) 2 SCC 66.

Accordingly, the impugned order is modified and it is ordered that instead of furnishing bank guarantee of Rs.2 lakh, 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 further made clear that if the petitioner violates any of the conditions, it shall be open to the prosecution to seek cancellation of spurdarinama.

Accordingly, the present petition is disposed of.

16.05.2022

P. Chawla

**(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No