

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CRM-M-5453-2022
Decided on : 09.02.2022

Tejinder Singh @ Honey

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

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

Mr. Karanbir Singh, AAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for setting aside order dated 13.09.2021 (Annexure P-3) passed by Judicial Magistrate 1st Class, Sunam to the extent that the condition of cash Security/ Bank guarantee of Rs.3,00,000/-, for releasing the vehicle No. PB-19R-4734 on Superdari, has been imposed.

Learned counsel for the petitioner has submitted that in the present case, FIR no. 74 dated 22.04.2021 was registered at Police Station Dirba, District Sangrur under Sections 61/78 of the Punjab Excise Act, 1914 and the vehicle bearing No. PB-19R-4734, which is the ownership of the present petitioner, was allegedly involved in the said case and thus, was confiscated. It is submitted that an application was moved for releasing the vehicle on Superdari and the said

application was allowed vide order dated 13.09.2021 but however, an onerous condition was imposed to the effect that the same would be released on deposit of security to the tune of Rs.3,00,000/- in the form of cash security or Bank guarantee and other conditions were also imposed. He has further submitted that the petitioner is ready to fulfill all the conditions mentioned in the order but has submitted that the condition with respect to deposit of security to the tune of Rs.3,00,000/- in the form of cash security or Bank guarantee is very onerous and instead of the said condition, a condition be imposed for furnishing of a personal bond in the sum of Rs.3,00,000/- and an additional security bond of Rs.3,00,000/-

For the same, learned counsel for the petitioner has relied upon a judgment of a Coordinate Bench of this court dated 23.02.2021 in ***CRM-M-18703-2020*** titled as ***Arshdeep Singh Vs. State of Punjab***.

Learned State counsel on the other hand, who has advanced notice in the present petition and is fully prepared to assist the Court, has opposed the present petition and has submitted that the condition which has been imposed with respect to the deposit of security to the tune of Rs.3,00,000/- in the form of cash security or bank guarantee is just and reasonable and the impugned order has been correctly passed.

This Court has heard the learned counsel for the parties and has perused the paperbook.

It is not in dispute that the application, which had been filed by the petitioner for releasing the vehicle, in question, on

Superdari, has been found to be meritorious and was allowed. While allowing the said application, it was observed in the order dated 13.09.2021 that no useful purpose would be served by keeping the said vehicle, which was a Scorpio car and was of 2010 model, in custody as it would deteriorate the condition of the vehicle. Although, the said order was passed on 13.09.2021 but on account of the condition of deposit of security to the tune of Rs.3,00,000/- in the form of cash security or Bank guarantee, the petitioner has not been able to get the said vehicle released and thus, the the same shows that the said condition of the impugned order is onerous. The Coordinate Bench of this court in *Arshdeep Singh's* case has held as under:

“xxx—xxx--xxx

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.

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.”

Even the above case is a case in which a condition of furnishing bank guarantee of Rs. 2.50 lacs was imposed for the release

of the vehicle, in question, on *superdari* and the said condition was modified after considering the hardship that was being faced by the petitioner therein.

The facts of the case of the present petition are similar to the facts of the abovesaid case.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 13.09.2021, only to the extent that a condition has been imposed for “deposit of security to the tune of Rs.3,00,000/- in the form of cash security or Bank guarantee”, is modified and instead of the said condition, the following condition would have to be complied with by the petitioner:-

“1(i) The petitioner would submit personal bond in the sum of Rs.3,00,000/- and also additional security bond of Rs.3,00,000/-”

The other conditions as mentioned in the order would remain the same.

With the aforesaid modification in the impugned order, the present petition is disposed of.

(VIKAS BAHL)
JUDGE

February 9th, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No