

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7999-2022

Date of decision : 4.3.2022

Beant Singh

..... Petitioner (s)

Versus

State of Punjab

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. G.S. Nahel, Advocate
for petitioner.

Mr. R.S. Khaira, AAG Punjab.

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HARINDER SINGH SIDHU, J.

The petitioner is an accused in case FIR No. 7 dated 18.1.2022 registered under Sections 61, 78/1/14 of Punjab Excise Act, 1914 at Police Station Dirba, District Sangrur. He has filed this petition praying for modification of order dated 2.2.2022 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Sunam vide which the application of petitioner for release of Swift car on superdari has been allowed subject to furnishing security in the form of cash security or bank guarantee of Rs. 4,00,000/- (which is the value of the vehicle).

Reliance was placed by the learned trial Court on the third proviso to sub-section (2) of Section 78 of Punjab Excise Act, 1914 which is as under :

'Provided further that during pendency of trial, conveyance shall only be released on submission of security (in form of cash security or bank guarantee) equivalent to the value of the conveyance thereof'.

The learned trial Court held that in view of that proviso, there was no option to release the vehicle without getting cash security or bank guarantee equivalent to the amount of conveyance.

Mr. Nahel, learned counsel for petitioner has argued that the condition imposed by the trial Court is onerous. He has relied on the decision of this Court dated 28.1.2020 in CWP-24941-2019 titled as 'Darshan Singh Versus State of Punjab'. In that petition, the challenge had been raised to the third proviso to sub-section 2 of Section 78 of Punjab Excise Act, 1914 which has been introduced as Punjab Excise (Second Amendment) Act, 2017 whereby the

confiscated vehicle could be released only on submission of security in the form

of cash security or bank guarantee equivalent to value of conveyance sought to be released.

In the course of proceeding in that petition, learned counsel appearing for State had stated that the State was considering amending the aforesaid provision. The petition was disposed of by directing to release the vehicle on superdari on the condition that petitioner would deposit 20 per cent of the assessed amount in cash and give security for the remaining amount alongwith other conditions which may be imposed by the Court. The Court also expressed the hope that the State would take expeditious decision in terms of their stand that the provision would be re-considered.

Accordingly, the order dated 2.2.2022 is modified and it is directed that instead of furnishing the cash security or bank guarantee of Rs. 4,00,000/-, 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 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 superdari bonds.

Disposed of.

(HARINDER SINGH SIDHU)
JUDGE

4.3.2022

sjks

Whether reasoned order : Yes / No

Whether reportable : Yes / No