

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

CRM-M-10188-2021
Reserved on: 22.08.2022
Pronounced on: 23.08.2022

Dilpreet Singh

...Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Narinder Singh Dadwal, Advocate,
for the petitioner.

Mr. Amish Sharma, AAG, Punjab.

HARNARESH SINGH GILL, J.

The car bearing Registration No. PB-10-BK-0444 belonging to the petitioner was found to be having bottles of liquor and accordingly, FIR No. 0157 dated 28.07.2019 under Section 61 of the Punjab Excise Act, 1914 was registered at Police Station City, Jagraon, District Ludhiana and the said vehicle was confiscated.

Pending trial, the learned Sub Divisional Judicial Magistrate, Jagraon, while disposing of the application filed by the petitioner for release of the aforesaid vehicle, passed an order dated 10.02.2020, directing the petitioner to furnish bank guarantee or cash surety for an amount of Rs.3,00,000/- apart from imposing other conditions as contained in the said order.

The petitioner unsuccessfully challenged the said order before the revisional Court, qua the bank guarantee or cash surety of Rs.3,00,000/-.

Still aggrieved, the petitioner has filed the present petition.

Learned counsel for the petitioner would submit that the said vehicle has been lying parked in the Police Station concerned since the very date of registration of the FIR and that no useful purpose would be served by keeping the said vehicle as such. It is further submitted that the condition of furnishing bank guarantee or cash surety in the sum of Rs.3,00,000/- is harsh and even the market value of the said is less than 50,000/- as on date.

Relying upon the Division Bench judgment of this Court in CWP-24941-2019 - Darshan Singh Vs. State of Punjab, decided on 28.01.2020 and the judgment of the Coordinate Bench of this Court in CRM-M-3747-2021- Jatinder Singh Vs. State of Punjab, decided on 28.01.2021, learned counsel for the petitioner submits that the vehicle of the petitioner may be ordered to be released, on the same directions as contained in the said judgments.

On the other hand, learned State counsel, though opposes the prayer made by the counsel for the petitioner, yet does not dispute the directions contained in the aforesaid judgments.

I have heard the learned counsel for the parties.

The petitioner is aggrieved against the conditions of furnishing of bank guarantee or cash surety in the sum of Rs.3,00,000/-.

The Division Bench in the case of Darshan Singh (supra), has considered the challenge to the notification dated 21.12.2017 issued by the Government of Punjab, as regards the proviso to Section 78(2) of the Punjab Excise Act, 1914, stipulating

the restriction of the security for release of the confiscated conveyance to cash security or bank guarantee. The relevant extract from the Division Bench order would read as under:-

“6. In the circumstances, we deem it appropriate to order the release of the vehicles on Sapurdari on the condition that the petitioners shall deposit 20% of the assessed amount in cash and give security for the remaining amount along with the other conditions which may have been imposed by the Court to the satisfaction of the trial Court.”

In view of the above, the impugned orders passed by the Courts below are modified to the extent that the vehicle in question shall be released to the petitioner on Sapurdari on depositing 20% of the assessed amount of said vehicle in cash or Bank Guarantee and to furnish security regarding the remaining assessed amount. The rest of the conditions as imposed by the trial Court, would remain intact.

Disposed of.

23.08.2022
ds

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No