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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13626-2022 (O&M)
Date of Decision:07.07.2022

Chamkaur Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vivek Singla, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

The petitioner has filed this petition under Section 482 Cr.P.C. to challenge the order dated 14.03.2022 (Annexure P-1) passed by revisional Court, whereby the order dated 30.04.2021 (Annexure P-2) passed by the trial Court for releasing the vehicle to him on sapurdari by imposing conditions in the light of the amendment in Section 78 Punjab Excise Act, 1914 was upheld. The impugned orders arise from the case proceedings of case FIR No.0148 dated 01.04.2021, under Section 61(1) Punjab Excise Act, 1914, registered at Police Station City Barnala, District Barnala (Annexure P-3).

Learned counsel for the petitioner has argued that the subject FIR was registered on the basis of a secret information for the alleged commission of offence punishable under Section 61(1) Punjab Excise Act, 1914 and recovery of 300 liters of liquor was made. He further submits that the vehicle involved in the said crime was impounded for confiscation proceedings, and the petitioner had moved an application for release of the

car bearing No.PB-11BK-8372 and the said prayer was accepted by the trial Court by imposing condition of furnishing a bank guarantee for a sum of Rs.5,50,000/- or in alternative to deposit cash as security. He has argued that aggrieved against the said order, the petitioner preferred the revision seeking modification of the order dated 30.04.2021 (Annexure P-2) passed by the trial Court, however, the revision petition was also dismissed on 02.03.2022 (Annexure P-4).

According to him, the condition of furnishing bank guarantee or cash security is based upon the amendment of Section 78(2) Punjab Excise Act, 1914 (Second Amendment), Act, 2017 applicable w.e.f. 21.12.2017, but the said amendment was challenged before this Court through CWP Nos.24941 of 2019 and 18946 of 2019, and the same were decided by common decision dated 28.01.2020. Learned counsel has further argued that as the impugned amendment was already under consideration with the State government, therefore, the writ Court declared the said issue as infructuous, but at the same time, it allowed the release of vehicle(s) on sapurdari to the petitioners therein. Learned counsel has also relied upon the decision dated 04.03.2022 passed in CRM-M-7999-2022, wherein the decision of writ Court was followed. He has produced the copies of these orders.

At this stage, learned counsel for the petitioner states that the petitioner would be satisfied, if the similar modification is allowed in his case and he be permitted to deposit 20% of the assessed amount of Rs.5,50,000/- in cash, and for the remaining amount he would furnish the surety.

Learned State counsel fairly states that he does not oppose the

limited prayer made by the petitioner seeking modification of the impugned condition imposed by the trial Court, as the prayer is covered by the decision relied upon by the learned counsel for the petitioner.

Considering the above, the petition is partly allowed only to the limited extent of modification of the condition relating to the security equivalent to the value of the conveyance, contained in the impugned orders, and it is ordered that in case, the petitioner deposits 20% of the total assessed value of the vehicle in cash and furnishes surety for the remaining amount, the vehicle in question be released to him. It is made clear that the other conditions contained in the impugned orders shall remain intact.

The petition is disposed off.

07.07.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No