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

CRR-653-2022

Date of decision: 12.07.2022

KARNAIL DASS

...Petitioner

Versus

STATE OF PUNJAB

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Vishal Goel, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. In FIR No.54 of 28.07.2020, lodged at Police Station Bakshiwala, District Patiala, an offence embodied in Section 61 of the Excise Act, is alleged to be committed, by the principal offender one, Bali Singh.

2. The incriminatory role, as becomes assigned to the above principal offender is that, in his Maruti car bearing Registration No. PB-11G-4746, he was illicitly carrying liquor bottles. However, the principal accused, was arrested, at the crime site, and, also the liquor bottles numbering about 96, besides the above vehicle became respectively seized/impounded, at the crime site.

3. It was during the course of the custodial interrogation of the principal offender one, Bali Singh that, he revealed to the investigating officer concerned, that the country made liquor bottles numbering about 96, and, as were being illicitly transported in the vehicle (supra), were purchased by him, from the present petitioner. Therefore, since the present petitioner become a supplier of the illicitly transported liquor, therefore, an incriminatory role of his being conspirator along with one, Karnail Dass became assigned to him.

4. Though, as above stated, the crime vehicle bearing No.PB-11G-4746 become impounded, at the crime site, by the investigating officer concerned, but the accused after the making of a disclosure statement against him, by the principal arrested accused, could not be forthwith arrested, rather, his arrest occurred, on 18.02.2022. Necessarily, the arrest of the present petitioner occurred much subsequent to the arrest of the principal offender, hence at the crime site, besides also obviously much belatedly from the seizure of the country made liquor, besides of the impounding of the vehicle bearing registration No.PB-11G-4746, whereins, the liquor bottles became carried.

5. Moreover, apart from the present petitioner becoming arrested, the vehicle, wherein, he was travelling, at the relevant time, inasmuch as, Car Toyota Kirloskar, Corolla, colour white, bearing registration No.PB-11-CW-9222, become also impounded.

6. In consequence, to the impounding of the above vehicle, the present petitioner, filed an application, under Section 451 of the Cr.P.C., before the learned trial Court concerned. However, thereons the learned trial Magistrate concerned, though granted relief to the present petitioner, inasmuch as, though he ordered for the release on superdari of the impounded vehicle, to the present petitioner, but only on the condition of his furnishing a bank guarantee in a sum of Rs.2 lacs.

7. The petitioner is aggrieved from the above made condition, and, has strived to cast, a challenge thereto, through his instituting the present petition.

8. The reason for interfering with the above order, is comprised, in the factum that, since the crime vehicle is not the vehicle at hand, but is the vehicle which was impounded, at the crime site, thereupon the learned trial Magistrate

concerned, though was required to cause its release on superdari, to the present petitioner, but without the imposition upon him of the above exacting condition.

9. Contrarily, the learned Magistrate concerned, was required to make a deep application of judicial mind to the above fact, which however, he has failed to do. Consequently, the same has resulted in gross injustice being done.

10. In aftermath, there is merit in the petition, and, the same is allowed. The impugned order of 09.03.2022, is quashed, and, set aside, in its entirety. The SHO of the Police Station concerned, where the petitioner's vehicle is lying, is directed, to forthwith release it, to the present petitioner.

12.07.2022

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**(SURESHWAR THAKUR)
JUDGE**

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