

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM-M-17222-2022 (O & M)****Date of decision: 16.09.2022**

Manak Sharma

.... Petitioner

V/s

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Amandeep Singh, Advocate,  
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

\*\*\*\*\*

**JASJIT SINGH BEDI, J. (Oral)**

The present petition has been filed under Section 482 Cr.P.C. for quashing of the impugned order dated 21.02.2022 passed by the Court of Chief Judicial Magistrate, Ludhiana and order dated 28.03.2022 passed by the Sessions Judge, Ludhiana (Annexure P-4) vide which both the Courts while allowing the application of the petitioner for release of vehicle on superdari imposed a condition to furnish superdari bonds in the sum of Rs.3,00,000/- with one surety and a bank guarantee in the sum of Rs.2,00,000/- in FIR No.23 dated 28.01.2022 under Sections 61, 1, 15 Excise Act, registered at Police Station Sahnewal, Ludhiana.

The brief facts of the case are that FIR No.23 dated 28.01.2022 under Sections 61, 1, 15 Excise Act, registered at Police Station Sahnewal, Ludhiana, was registered against the co-accused of the petitioner, namely, Jaspreet Singh and in the said FIR, the car of the petitioner bearing No.PB-

boxes of liquor. An application was moved for the release of the aforesaid car on superdari and the Chief Judicial Magistrate, Ludhiana called for a report from the police authorities for release of the car and a report was given that they had no objection if the car was released on superdari as per the provisions of the Punjab Excise Act, 1914.

After receiving the report, the Chief Judicial Magistrate, Ludhiana, ordered the release of the car of the petitioner on superdari to his Special Power of Attorney Holder vide order dated 21.02.2022 on furnishing superdari bonds in the sum of Rs.3,00,000/- with one surety of the like amount and alongwith bank guarantee to the tune of Rs.2,00,000/- alongwith certain other conditions.

As the petitioner was not financially sound and unable to arrange the hefty amount/bank guarantee for the release of his car, a revision petition was filed before the Court of Sessions Judge, Ludhiana, which came to be dismissed by the said Court vide order dated 28.03.2022. The Sessions Judge, Ludhiana stated that as per the provisions of Section 78(2) of the Punjab Excise Act, 1914, if the recovered quantity of liquor exceeds 27 bulk liter of liquor, then the Magistrate could give the owner of the vehicle an option to pay an amount equal to the value of the vehicle or as estimated by the Magistrate and the vehicle would be released only on submission of security (in the form of cash security or bank guarantee) equivalent to the value of the car, and therefore, the vehicle could not be released on superdari without furnishing cash security or bank guarantee.

The aforementioned orders dated 21.02.2022 and 28.03.2022 are impugned in the present petition.

The learned counsel for the petitioner contends that, in fact, a

the Notification for amendment in Section 78(2) of the Punjab Excise Act, 1914 was challenged vide CWP-24941-2019 and CWP-18946-2019 and in the said writ petitions, the Government of Punjab gave an undertaking to this Court that they would reconsider the amendment of Section 78(2) of the Punjab Excise Act, 1914, upon which this Court vide order dated 28.01.2020 ordered that the vehicle in question be released on superdari on the condition of depositing 20% of the assessed amount in cash and give security for the remaining amount alongwith other conditions as imposed by the Court. A copy of the order dated 28.01.2020 is attached to the petition as Annexure P-5. He further contends that this Court in the case of ***‘Jatinder Singh versus State of Punjab, 2021(2) Law Herald 1087’***, has also quashed similar orders and ordered that the vehicle in question be released on superdari on depositing 20% of the assessed amount of the said vehicle in cash or bank guarantee and further furnishing security for the remaining assessed amount alongwith other conditions as imposed by the Court concerned.

This matter had come up for hearing on an earlier occasion and on 14.09.2022, the learned State counsel had sought instructions regarding the amendment, if any, in the Notification No.31-LEG/2017 dated 21.12.2017 in furtherance to the judgment dated 28.01.2020 (Annexure P-5) passed by this Court.

The learned counsel for the petitioner has candidly stated that in terms of Para 04 of the judgment dated 28.01.2020 (Annexure P-5), the State has not reconsidered the Notification No. 31-LEG/2017 dated 21.12.2017. He further candidly admits that the case of the petitioner is similar to the aforementioned judgements passed by this Court in the cases of ***‘Darshan Singh versus State of Punjab, (CWP-24941-2019 decided on 28.01.2020),***

***Annexure P-5*** and ***'Jatinder Singh versus State of Punjab, 2021(2) Law Herald 1087'***.

In view of the above, the present petition is allowed and the impugned orders dated 21.02.2022 passed by the Chief Judicial Magistrate, Ludhiana and 28.03.2022 passed by the Sessions Judge, Ludhiana (Annexure P-4) are quashed. Consequently, it is ordered that the car bearing No.PB-10-FS-9751, Swift Dzire VDI be released to its registered owner/Power of Attorney on superdari on depositing 20% of the assessed amount of the said vehicle in cash or bank guarantee and further furnishing security for the remaining assessed amount alongwith other conditions as imposed by the Court concerned.

**( JASJIT SINGH BEDI)**  
**JUDGE**

**September 16, 2022**  
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No