

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

**CRM-M-17207-2022
Date of decision: 26.04.2022**

Amandeep Singh**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Munish Raj Chaudhary, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for modification of order dated 14.02.2022 (Annexure P-2), passed by the trial Court in case FIR No. 234 dated 11.11.2021, registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Sadar Dhuri, District Sangrur, vide which while allowing the application for releasing the vehicle bearing registration number PB-13-BA-0327 to the petitioner on *superdari*, a condition has been imposed that the petitioner will furnish security in the form of cash security or bank guarantee to the tune of Rs. 2,00,000/-.

Learned counsel for the petitioner submits that the aforesaid condition imposed by the trial Court is onerous. Learned counsel has relied upon the decision of this Court dated 28.01.2020 in ***CWP-24941-2019*** titled as ***'Darshan Singh Versus State of Punjab'***, wherein a challenge was laid 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.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab, who is also appearing through video conferencing, accepts notice on behalf of the respondent-State and could not dispute the factual position, however, it is submitted that under sub-section 2 of Section 78 of Punjab Excise Act, 1914, the trial Court has rightly directed the petitioner to furnish security in the form of cash or bank guarantee.

After hearing learned counsel for the parties, considering the submissions made by learned counsel for the parties and also in view of the judgment relied upon by learned counsel for the petitioner, the order dated 14.02.2022 (Annexure P-2) is modified and it is directed that instead furnishing the cash security or bank guarantee of Rs. 2,00,000/-, the 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.

26.04.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No