

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-17453-2022 (O&M)

Date of Decision: 28.4.2022

Harjit Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Naveen Sharma, Advocate,
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

KARAMJIT SINGH, J. (Oral)

The petitioner, who is facing trial in criminal case having FIR No.19 dated 17.4.2019 registered under Sections 61 of Punjab Excise Act at Police Station Ghagga, District Patiala, has filed the present petition for setting aside/quashing of order dated 23.9.2019 (Annexure P-4) passed by the Court of Sessions Judge, Patiala, vide which, the revision against order dated 15.6.2019 passed by JMIC, Samana, District Patiala, has been dismissed, vide which, the application of the petitioner for release of Swift Car bearing registration No.PB-10-DP-5390, has been allowed subject to furnishing personal sapurdari bonds along with bank guarantee in the sum of ₹ 2 lakhs subject to undertaking that the petitioner will not change its colour or its shape and produce the vehicle before the Court on each date of hearing or the petitioner will not dispose off the vehicle in question till the final disposal of the case.

Counsel for the petitioner has argued that the condition

regarding deposit of bank guarantee worth ₹ 2 lakhs imposed by the trial Court is onerous and is liable to be set aside or modified. In support of his contentions, he referred to order dated 4.3.2022 passed in CRM-M-7999-2022; Beant Singh v. State of Punjab, order dated 3.8.2021 passed in CRM-M-30691-2021; Satnam Singh v. State of Punjab and order dated 23.2.2021 passed in CRM-M-18703-2020; Arshdeep Singh v. State of Punjab.

Notice of motion.

Ms. Samina Dhir, DAG, Punjab, accepts notice on behalf of the State who submitted that the aforesaid condition of bank guarantee was imposed by the trial Court in accordance with third proviso to sub section 2 of Section 78 of Punjab Excise Act, 1914 and thus, there is no illegality in the order under challenge.

After hearing the counsel for the parties, this Court is of the view that the condition imposed by the trial Court regarding furnishing of bank guarantee is harsh and oppressive and it virtually amounts to denial of the relief. Imposition of such condition has been disapproved by Hon'ble Supreme Court in **Sandeep Jain v. National Capital Territory of Delhi**; (2002) 2 SCC 66.

Accordingly, the impugned order is modified and it is ordered that instead of furnishing bank guarantee of ₹ 2 lakh, 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 the trial Court shall remain unaltered.

It is further made clear that if the petitioner violates any of the

spurdarinama.

Accordingly, the present petition is disposed of.

April 28, 2022

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No