

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

**CRM-M No.37495 of 2020
Date of Decision:- 30.05.2022**

Sukhdev Singh

....Petitioner

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Ramandeep, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab

KARAMJIT SINGH, J.

The petitioner, who is facing trial in criminal case having FIR No.0167 dated 02.10.2018 registered under Section 61 of Punjab Excise Act at Police Station Samana, District Patiala, has filed the present petition for setting aside/quashing the order dated 26.02.2020 (Annexure P-5) passed by Court of Sessions Judge, Patiala, whereby the revision petition against the order dated 22.11.2019 (Annexure P-3) passed by the Court of SDJM, Samana, vide which, the application of the petitioner for release of Xenon Pickup bearing registration No.PB-10FV-8917, has been allowed subject to

furnishing bank guarantee in the sum of Rs.3 lakhs subject to undertaking that the petitioner will produce the vehicle in the Court on each and every date of hearing and will not change its colour or its shape and produce the vehicle before the Court during the course of trial.

Counsel for the petitioner has argued that the condition regarding deposit of bank guarantee worth Rs. 3 lakhs imposed by the trial Court is onerous and is liable to be set aside. In support of his contentions, he referred to 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.

Present petition is contested by the counsel for the State by filing reply which is ordered to be taken on record. The State counsel submitted that the aforesaid condition of bank guarantee was imposed by the trial Court in consonance 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 Rs.3 lakhs, 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 conditions, it shall be open to the prosecution to seek cancellation of spurdarinama.

Accordingly, the present petition is disposed of.

30.05.2022

P. Chawla

**(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No