

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-7186-2022 in/and
CRM-M-49442-2021 (O&M)
Date of Decision: 8.3.2022

Gurjant Singh @ Janta

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Gopal Singh Nahel, Advocate,
for the petitioner.

Mr. A.K.Kaundal, DAG, Punjab.

KARAMJIT SINGH, J.

CRM-7186-2022

Present application has been filed for preponing the date of hearing in the main case.

Notice of the application.

Mr. A.K.Kaundal, DAG, Punjab, accepts notice on behalf of the State and pleaded no objection if the present application is allowed.

In view of above, the present application is allowed and the main case is taken on board today itself.

CRM-M-49442-2021

The petitioner, who is facing trial in criminal case having FIR No.30 dated 23.4.2021 registered under Sections 61, 69, 78/1/14 of Punjab Excise Act at Police Station Khanauri, District Sangrur, has filed the present petition for modification of order dated 26.5.2021 (Annexure P-2) passed by

for release of i20 Car bearing registration No.DL-7CL-8440, has been allowed subject to furnishing bank guarantee in the sum of ₹ 3 lakh with one surety in like amount against immovable property subject to undertaking that the petitioner will not change its colour or its shape and produce the vehicle before the Court during the course of trial at his own responsibility without any special notice.

Counsel for the petitioner has argued that the condition regarding deposit of bank guarantee worth ₹ 3 lakh 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.

Present petition is contested by the counsel for the State by filing reply which is ordered to be taken on record while submitting 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 ₹ 3 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 conditions, it shall be open to the prosecution to seek cancellation of *spurdarinama*.

Accordingly, the present petition is disposed of.

March 8, 2022

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No