

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

Sr. No.275

CRM-M-48284-2022

Date of decision : 16.11.2022

Sukhdev Singh @ Kala

.....Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.KS Derabassi, Advocate for the petitioner

Mr.MS Joshi, Addl.AG, Punjab

AMAN CHAUDHARY, J.

The present petition under Section 482 Cr.P.C. has been filed for setting aside or modifying the impugned order dated 10.5.2022, Annexure P-4, passed by learned Chief Judicial Magistrate, Fatehgarh Sahib, in case No.CRM-190 of 2022 in FIR No.0005 dated 16.1.2022, registered under Sections 61, 78(2) of the Punjab Excise Act, 1914 and Section 473 IPC at Police Station Bassi Pathana, District Fatehgarh Sahib, whereby allowing the application of the petitioner for releasing the truck on sapurdari, the petitioner has been directed to furnish cash/ bank guarantee of Rs.5,50,000/-.

Learned counsel for the petitioner submits that the trial Court vide order dated 10.5.2022, Annexure P-4, while allowing the application of the petitioner for release of his truck bearing registration No.PB-65P 9316, on sapurdari, of which he has a Special Power of Attorney holder, as the same is registered under the ownership of one Surender Kaur and was

stated to be involved in the FIR in question, directed to furnish sapurdari bonds by way of cash security / bank guarantee to the tune of Rs.5,50,000/- in view of the provision of Section 78(2) of the Punjab Excise Act, 1914. He further submits that the value of the vehicle was ascertained from the copy of the insurance policy placed on record before the trial Court. The solitary prayer made by him in the present petition is that he being a poor person, is not in a position to furnish cash security / bank guarantee but is instead ready to furnish adequate solvent surety of the equal amount in the shape of property. He relies on the order dated 8.11.2019 passed by this Court in CRM-M-47871-2019, titled as Balwinder Singh vs. State of Punjab, Annexure P-5, wherein instead of furnishing bank guarantee of Rs.5,00,000/-, the petitioner therein was permitted to furnish two solvent sureties of the equivalent amount.

Learned State counsel is unable to distinguish the aforesaid order, however, he submits that the order passed by the trial Court is legal and valid.

Heard.

As stated, the vehicle in question is no longer required by the police and if it remains in their custody, shall lose its value and utility. The vehicle being the only source of income of family of the petitioner, who in absence of it, is suffering heavy financial loss but being a poor person, is unable to furnish the cash/ bank guarantee for its release and in place of the same, is ready to furnish adequate solvent surety of the equal amount in the shape of property. Hon'ble The Supreme Court of India in the case of **State of Kerala vs. A.A.Ali**, 2018 (4) RCR (Crl.) 112 had held that

the Courts should not insist on furnishing of the bank guarantee in such like cases.

In view of the facts and circumstances of the present case, the present petition is disposed by modifying the order of the trial Court only to the extent of furnishing cash/ bank guarantee is concerned in place of which ,the petitioner is directed to furnish two solvent sureties of the like amount however, the remaining conditions will remain intact.

16.11.2022
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No