

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

CRM-M No.49077 of 2022 (O&M)

Date of decision: 15.11.2022

Malkiat Singh

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Munish Puri, Advocate
for the appellant.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside the order dated 25.04.2022, vide which the trial Court, while releasing the vehicle i.e. Tractor and Trolley bearing registration No.PB-35-AC-3598, on superdari, imposed stringent condition of depositing bank guarantee of Rs.10,00,000/- as well as the order dated 03.08.2022 passed by the Lower Appellate Court whereby the appeal preferred against the order dated 25.04.2022, has been dismissed.

Counsel for the petitioner has argued that the trial Court has put very stringent condition of furnishing bank guarantee on the petitioner, which is as good as payment in cash. It is further submitted that there is no such provision in Cr.P.C. to direct furnishing of bank guarantee, as in the interest of justice, the trial Court could have ordered furnishing the security bond equivalent to value of the vehicle. It is also submitted that the vehicle is lying unused since 17.12.2021 and almost a period of about 11 months has lapsed and with the passage

of time, it will outlive its life, as it is lying parked in the Police Station in an open space. It is also submitted that the petitioner has taken loan and cannot earn anything from the vehicle in dispute. Since the petitioner is unable to furnish the bank guarantee of Rs.10.00 lacs, he is ready to furnish security bond and therefore, condition imposed in the impugned order dated 25.04.2022 may be substituted with the condition of furnishing security bond, for releasing the vehicle bearing registration No. PB-35-AC-3598 on superdari, which was confiscated in FIR No.0149 dated 17.12.2021, registered under Sections 304-A, 279, 427 IPC at Police Station Sadar Pathankot, District Pathankot.

Notice of motion.

Mr. Navneet Singh, DAG, Punjab, who is present in the Court accepts notice on behalf of the respondent – State and has supported the order passed by the trial Court, which is based on new policy issued by the Punjab Government, which provides that the vehicle cannot be released during the trial, as the same is liable to be confiscated, however, the Magistrate may give an option to pay an amount equal to the value of the vehicle on submission of security (in form of cash security or bank guarantee).

After hearing learned counsel for the parties, considering the hardship being faced by the petitioner that he is unable to get his vehicle released for the last 11 months and also in view of the fact that the vehicle is lying unused and parked in Police Station in an open space and it may outlive its life, I deem it appropriate to substitute the

condition of furnishing bank guarantee of Rs.10.00 lacs with furnishing security bond of Rs.10.00 lacs.

Accordingly, this petition is allowed and the order dated 03.08.2022 passed by the Lower Appellate Court is set-aside and the order dated 25.04.2022 passed by the trial Court is modified to the extent, discussed hereinbefore.

With aforesaid modification, present petition stands disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

15.11.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No