

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-54147-2021 (O&M)

Date of decision: 15.12.2022

SUKHPAL SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the petitioner.

Mr. Kamalpreet Bawa, AAG Punjab.

AMAN CHAUDHARY. J.

Present petition has been filed for setting aside/quashing the order dated 24.11.2021 passed in Criminal Revision No.155-2021 passed by learned Additional Sessions Judge, Patiala vide which the revision against the order dated 08.10.2021 passed by learned Judicial Magistrate Ist Class, Rajpura has been dismissed vide which the vehicle of the petitioner was ordered to be released subject to deposit of Rs.3,50,000/- in cash/bank guarantee in case FIR No.79 dated 07.08.2021 registered under Section 61/78(2) of the Punjab Excise Act, 1914 at Police Station Ghanaur, District Patiala.

Learned counsel for the petitioner submits that the trial Court vide order dated 08.10.2021, Annexure P-2, while allowing the application of the petitioner for release of his vehicle i.e. Bolero Maxi Truck bearing registration No.PB-10-EH-5778 on sapurdari, of which he is registered owner 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.3,50,000/-. 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-48284-2022, titled as Sukhdev Singh @ Kala Vs. State of Punjab, wherein instead of furnishing bank guarantee of Rs.5,50,000/-, 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 Courts below are 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 in place of which, the petitioner is directed to furnish two solvent sureties of the like amount however, the remaining conditions will remain intact.

(AMAN CHAUDHARY)
JUDGE

December 15, 2022

S.Sharma(syr)

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*