

CRM-M-2611 of 2023

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

CRM-M-2611 of 2023
Date of decision: 18.01.2023

Gurpreet Singh @ Fauji

.....Petitioner

vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Mohit Kumar, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for modification of order dated 10.12.2020 (Annexure P-2) passed by the Court of learned Judicial Magistrate First Class, Sangrur, to the extent of imposing the condition of bank guarantee of Rs.5,00,000/-, for releasing the vehicle No. PB-11-AY-7996 on Sapurdari, which was confiscated in case FIR No.07 dated 12.01.2020 under Section 61 of the Punjab Excise Act, 1914, registered at Police Station Sadar Sangrur, District Sangrur.

Learned counsel for the petitioner has submitted that in the present case, FIR No.07 dated 12.01.2020 under Section 61 of the Punjab Excise Act, 1914, registered at Police Station Sadar Sangrur, District Sangrur and vehicle bearing No. PB-11-AY-7996, which is the ownership of the present petitioner, was allegedly involved in the said case and thus, was confiscated. It is submitted that an application was moved for releasing the vehicle on Sapurdari and the said application was allowed

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vide order dated 10.12.2020, however, an onerous condition was imposed to the effect that the same would be released on furnishing of surety bonds in the sum of Rs.5,00,000/- along with security in the form of cash security or bank guarantee equivalent to the amount in question and other conditions were also imposed. He has further submitted that the petitioner is ready to fulfil all the conditions mentioned in the order but has submitted that the condition with respect to deposit of security to the tune of Rs.5,00,000/- in the form of cash security or Bank guarantee is very onerous and instead of the said condition, a condition be imposed for furnishing of a personal bond in the sum of Rs.5,00,000/- and an additional security bond of Rs.5,00,000/-

To support the above contention, learned counsel for the petitioner has relied upon a judgment of a Coordinate Bench of this court **dated 23.02.2021 in CRM-M-18703-2020 titled as Arshdeep Singh Vs. State of Punjab.**

Learned State counsel on the other hand, who has advanced notice in the present petition and is fully prepared to assist the Court, has opposed the present petition and has submitted that the condition which has been imposed with respect to the deposit of security to the tune of Rs.5,00,000/- in the form of cash security or bank guarantee is just and reasonable and the impugned order has been correctly passed.

I have heard learned counsel for the parties and has perused the paperbook.

It is not in dispute that the application, which had been filed by the petitioner for releasing the vehicle, in question, on Sapurdari, has been

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found to be meritorious and was allowed. Although, the said order was passed on 10.12.2020 but on account of the condition of deposit of security to the tune of Rs.5,00,000/- in the form of cash security or Bank guarantee, the petitioner has not been able to get the said vehicle released and thus, the the same shows that the said condition of the impugned order is onerous. The Coordinate Bench of this court in **Arshdeep Singh's** case has held as under:

“xxx—xxx--xxx

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 one and half year and also in view of the fact that the vehicle is lying unused and parked in police station in an open space and may outlive its life, I deem it appropriate to substitute the condition of furnishing bank guarantee of Rs.2.50 lacs with furnishing of personal bond in a sum of Rs.2.50 lacs and additional security bond of Rs.2.50 lacs.

Accordingly, this petition is allowed and the order dated 24.06.2020 passed by the trial Court is set aside.

With aforesaid modification, present petition stands disposed of.”

Even the above case is a case in which a condition of furnishing bank guarantee of Rs. 2.50 lacs was imposed for the release of the vehicle, in question, on sapurdari and the said condition was modified after considering the hardship that was being faced by the petitioner therein.

The facts of the case of the present petition are similar to the facts of the abovesaid case.

Keeping in view the abovesaid facts and circumstances, the

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present petition is allowed and the impugned order dated 10.12.2020, only to the extent that a condition has been imposed for “deposit of security to the tune of Rs.5,00,000/- in the form of cash security or Bank guarantee”, is modified and instead of the said condition, the following condition would have to be complied with by the petitioner:-

“1(i) The petitioner would submit personal bond in the sum of Rs.5,00,000/- and also additional security bond of Rs.5,00,000/- ”

The other conditions as mentioned in the order would remain the same.

With the aforesaid modification in the impugned order, the present petition is disposed of.

18.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No