

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-24075-2022

Date of decision: 09.01.2023

Sumit Singh

....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P. S. Sekhon Advocate
for the petitioners.

Mr. Kamalpreet Bawa, AAG, Punjab.

AMAN CHAUDHARY. J.

Present petition has been filed for modification of order dated 16.07.2020 (Annexure P-2) passed by learned SDJM, Sunam passed in case FIR No. 171 dated 23.06.2020 under Sections 61 and 78 of the Punjab Excise Act, 1914 registered at Police Station City Sunam, District Sangrur vide which the petitioner is directed to submit the security to the tune of Rs.10 lakh in the form of cash security or bank guarantee and for modification of judgment dated 28.01.2021 passed by learned ADJ, Sangrur (Anenxure P-3) vide which the revision petition filed by the petitioner was dismissed with a further prayer to modify the order dated 16.07.2020 passed by learned SDJM, Sunam and judgment dated 28.01.2021 passed by learned ADJ Sangrur (Annexure P-3) to the extent that the petitioner is allowed to submit the security of his property amount to Rs.15,45,500/-.

Learned counsel for the petitioner submits that the trial Court vide order dated 16.07.2020 (Annexure P-2) while allowing the application of the

petitioner for release of his vehicle i.e. Car Maruti Swift Dezire bearing registration No. PB-64-B-1014 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 surety/bank guarantee to the tune of Rs.10,00,000/-. 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 08.11.2019 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 loose its value and utility. The petitioner, 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 Court 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 of 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.

(AMAN CHAUDHARY)
JUDGE

January 09, 2023

Mehak

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