

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.28647 of 2021
Date of Decision:- 11.04.2023

Gurpreet Singh

....Petitioner

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Abhay Gupta, Advocate
for the petitioner.

Mr. CL Pawar, Addl. AG, Punjab

KARAMJIT SINGH, J.

The petitioner, whose truck bearing No.PB-30-R-6662 was taken into custody by the police in criminal case having FIR No.0118 dated 27.10.2020 registered under Section 61/78 of Punjab Excise Act in Police Station Nandgarh District Bathinda has filed the present petition for setting aside/modification of the order dated 15.12.2020 (Annexure P-4) passed by the Court of JMIC, Bathinda, whereby the aforesaid vehicle was ordered to be released on superdari subject to furnishing of superdari bonds in the sum of Rs.10

lakhs in the shape of cash security or bank guarantee and order dated 25.03.2021 (Annexure P-6) passed by the said Court whereby the review application filed by the petitioner is dismissed.

Counsel for the petitioner has argued that the condition regarding deposit of cash security/bank guarantee worth Rs. 10 lakhs imposed by the trial Court is onerous and is liable to be set aside. In support of his contentions, he referred to order dated 3.8.2021 passed in CRM-M-30691-2021; Satnam Singh v. State of Punjab and order dated 23.2.2021 passed in CRM-M-18703-2020; Arshdeep Singh v. State of Punjab.

Present petition is contested by the counsel for the State who submits that the aforesaid condition of cash security/bank guarantee is imposed by the trial Court in consonance with third proviso to sub- section 2 of Section 78 of Punjab Excise Act, 1914 and thus, there is no illegality in the impugned orders.

After hearing the counsel for the parties, this Court is of the view that the condition imposed by the trial Court regarding furnishing of bank guarantee is harsh and oppressive and it virtually amounts to denial of the relief. Imposition of such condition has been disapproved by Hon'ble Supreme Court in Sandeep Jain v. National Capital Territory of Delhi; (2002) 2 SCC 66.

Accordingly, the impugned order is modified and it is ordered that instead of furnishing cash security/bank guarantee of

Rs.10 lakhs, the petitioner shall furnish a solvent surety of the like amount. In addition, the petitioner shall also furnish an undertaking before the trial Court to the effect that henceforth, the vehicle will not be used for any criminal activity. All other conditions imposed by the trial Court shall remain unaltered.

It is further made clear that if the petitioner violates any of the conditions, it shall be open to the prosecution to seek cancellation of spurdarinama.

Accordingly, the present petition is disposed of.

11.04.2023

P. Chawla

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No