

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

CRM-M No.28544 of 2023

Date of decision : 01.06.2023

Yadwinder Sharma @ Happy

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Janak Singh Bhinder, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 05.05.2023 (Anenxure P-2), passed by the learned Senior Division Judicial Magistrate, Sunam in application No. CRM-56-2023 in FIR No.184, dated 26.08.2022, registered under Sections 61, 78, of the Punjab Excise Act, 1914 and Section 483 of IPC, at Police Station City Sunam, District Sangrur, whereby allowing the application of the petitioner for releasing the car on sapurdari, the petitioner has been directed to deposit cash/bank guarantee of Rs.3,00,000/-.

2. Learned counsel contends that the vehicle that was confiscated has been ordered to be released on sapurdari by the trial Court on an application filed by the petitioner vide order dated 05.05.2023, Annexure P-2. However, an onerous condition of depositing of security to the tune of Rs.3,00,000/- in the form of cash/bank guarantee has been imposed. He further submits that he is ready to furnish the personal bonds and an additional security bond of Rs.3,00,000/- instead of the aforesaid condition.

He relies on the orders passed by this Court in **CRM-M-18703-2020** dated 23.02.2021 titled as “**Arshdeep Singh vs. State of Punjab**” and **CRM-M-**

5453-2022 dated 09.02.2022 in “**Tejinder Singh @ Honey vs. State of Punjab**”.

3. Notice of motion.

4. At the asking of the Court, Mr. Sandeep Kumar, DAG, Punjab, appears and accepts notice on behalf of the respondent-State. He submits that the condition that has been imposed upon the petitioner is just and reasonable and the impugned order has been validly passed.

5. Heard.

6. 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 petitioner is a very poor person and is unable to furnish the cash/ bank guarantee for its release and in place of the same, is ready to furnish the personal bonds and an additional security bonds of Rs.3,00,000/-. 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.

7. In view of the afore-referred judgments, 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 personal bond and an additional security bond of Rs.3,00,000/-, however, the remaining conditions will remain intact.

01.06.2023

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(**RAJESH BHARDWAJ**)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No