

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

CRM-M-53568-2023

Date of Decision: 02.11.2023

Gaurav Stone and Crusher

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. DPS Joura, Advocate, for the petitioner.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 CrPC is to quash order dated 01.08.2023 passed by Id. JMIC, Hisar (Annexure P1) imposing certain conditions for releasing the vehicle of petitioner on superdari; and the order dated 10.10.2023 passed by Id. Additional Sessions Judge, Hisar (Annexure P2), dismissing the revision against the order dated 01.08.2023 (Annexure P1).

2. As it emerges on perusal of the paper-book, vehicle bearing registration No.HR-61-D-7689 of the petitioner was impounded during the investigation of case FIR No.246 dated 10.04.2023 under Section 379 IPC and Section 21 of the Mines and Minerals Act (Development and Regulation) Act, 1957, registered at Police Station HTM, Hisar, District Hisar. Petitioner applied for releasing the said vehicle on superdari. Id. JMIC, Hisar vide order dated 01.08.2023 (Annexure P1) allowed the application, but imposed following conditions: -

- “i. That he will furnish superdarinama in the sum of Rs.20,000,00/- with one surety in the like amount to the satisfaction of the Court;
- ii. That he shall not again use the said vehicle in violation of the provisions of MMDR Act and Mining Rules 2012;
- iii. That in case he is again found using his said vehicle in violation of aforesaid statutory provisions, then the entire superdarinama amount will be forfeited and recovered from the applicant as well as surety;
- iv. **That he shall deposit 60% of the penalty amount as assessed by the Mining Officer, Hisar in the Court;**
- v. That he shall produce his vehicle before the Court as and when directed;
- vi. That he will remove excess mineral from his vehicle at his own expenses before its release;
- vii. That he shall comply with remaining terms and conditions of superdarinama.”

3. Petitioner challenge the aforesaid order before the Court of Sessions, but the revision was dismissed vide order dated 10.10.2023 (Annexure P2) by Id. Additional Sessions Judge, Hisar.

4. It is contended by Id. counsel that though petitioner is prepared to comply all the conditions, but the condition of depositing the 60% of the penalty amount as assessed by the Mining Officer, Hisar is quite onerous and that this condition should be withdrawn. Id. counsel contends further that trial is yet to take place and it will be established during trial as to whether petitioner is liable to pay the penalty or not and as to whether he was involved in the crime or not.

5. Notice of motion.

6. Mr. Randhir Singh, Addl. A.G., Haryana, accepts notice on behalf of the respondent/State.

7. Ld. State counsel has drawn attention towards order dated 10.10.2023 passed by ld. ASJ, Hisar so as to contend that the court has referred to a judgment of this Court in case titled as ***M/s K.C. Stone Crushing Co. and others Vs. State of Haryana and others***, CRM-M-23190-2020, decided on 04.02.2021, wherein this Court had discussed in detail the various provisions of Mining Act and the law with regard to seizure and release of vehicle on superdari etc. After elaborate discussion, following directions were issued by this Court: -

“45. The following directions are thus issued to the respondents:

(i) xxxxx

(ii) xxxxx

(iii) Upon the respondent authorities either choosing to lodge a FIR/complaint or choosing to move an application under rule 101 (10) of Mining Rules 2012 for confiscation of vehicle, it shall be open to the Court concerned to entertain an application for release of the vehicle on ‘superdari’ during the pendency of such proceedings if there is likelihood of delay in conclusion of such proceedings. The Court dealing with such application shall decide the same independently while considering all such pleas as may be raised by the parties. The Court concerned shall, however, endeavour to dispose of such applications at the earliest.

(iv) While considering release of vehicle on “superdari”, the Court may choose to impose any such strict conditions as deemed fit. The Court concerned may even direct the applicant to deposit in Court an amount equal to the penalty imposed by the authorities concerned or part thereof, in addition to any other condition.”

8. It is evident from the aforesaid directions issued by this Court in the case of ***M/s K.C. Stone Crushing Co. and others (Supra)*** that while considering release of vehicle on superdari, the Court may choose to impose any such conditions as deemed fit and may even direct the

applicant to deposit an amount equal to the penalty imposed by the authorities concerned or part thereof, in addition to any other condition.

9. In the aforesaid circumstances, the condition of deposit of 60% of the assessed penalty amount cannot be held to be onerous.

10. Consequently, this Court finds no merit in the present petition and as such, the same is hereby dismissed.

02.11.2023

Vivek

(DEEPAK GUPTA)
JUDGE

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes
No