

CRM-M-2762-2024 (O&M)

125 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2762-2024 (O&M)
Decided on:-13.03.2024

Rakesh

....Petitioner..

vs.

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. P.S. Girwar, Advocate and
Mr. Vikram Rana, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

HARKESH MANUJA J. (Oral)

CRM-11063-2024 & CRM-8162-2024

Applications are allowed as prayed for. Orders passed by the trial Court as Annexures R-2 & R-3 as well as copy of jamabandi for the year 2019-2020 as Annexure A-1, are taken on record.

Main case

1. By way of present petition filed under Section 482 Cr.P.C., challenge has been laid to an order dated 17.05.2023 passed by the Court of learned Additional Sessions Judge, Karnal in FIR No.152, dated 24.03.2023, under Section 379 IPC, Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, registered at Police Station Sector 32-33, Karnal, whereby the vehicle of the petitioner was released on superdari with the following conditions:-

“The learned CJM having exercised her discretion in the matter directing the revisionist to deposit the penalty amount

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Rs.2 lacs in Court as a condition for release of the vehicle on superdari, it could not be said that such exercise of discretion is either illegal or suffers from any material irregularity, which could be interfered with in revision.”

Including the condition imposed by the Court of CJM, Karnal, vide order dated 22.12.2022, whereby the petitioner was directed to furnish superdaginama in the sum of Rs.10 lakhs with one surety in the like amount.

2. Learned counsel for the petitioner submits that the petitioner is not having sufficient means to comply with the directions issued by Courts below and would not be able to fulfill the conditions laid down therein, which would cause serious prejudice to his rights as he would not be able to get the vehicle in question released, which is primarily the source of livelihood of the petitioner and his family besides some land measuring 08 kanals situated in village Kalri Jagir, Tehsil Indri, District Karnal and, thus, he prays for withdrawal/modification of the aforesaid conditions.

3. On the other hand, prayer made herein has been opposed at the instance of learned State counsel while referring the nature of offence. Thus, the orders passed by the Courts below warrant no interference.

4. I have heard learned counsel for the parties and gone through the paper book.

5. Undisputedly, the vehicle involved is primarily the source of livelihood of the petitioner and his family besides 08 kanals of land owned by him in village Kalri Jagir, Tehsil Indri, District Karnal and in these circumstances, the twin conditions imposed by the Courts below as regards furnishing superdaginama in the sum of Rs.10 lakhs with one surety in the like amount, subject to the condition that the petitioner shall deposit penalty

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amount of Rs.2 lakhs with the Court in refundable head till the decision of the case appears to be onerous, especially when the vehicle involved is Dumper bearing registration No.HR-37D-9108 pertains to 2018 and as per learned counsel for the petitioner, the insurance value is Rs.5 lakhs only.

6. Considering the totality of facts and circumstances, the orders passed by the Courts below are modified only to the extent that the petitioner shall furnish superdaginama in the sum of Rs.5 lakhs with one surety in the like amount subject to the condition that the petitioner shall further deposit refundable penalty amount of Rs.1 lakh.

7. Accordingly, present petition stands disposed of.

8. However, it is made clear that in case the petitioner is found to be involved in other cases of similar nature, the State shall be at liberty to seek recalling of this order.

13.03.2024
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(HARKESH MANUJA)
JUDGE

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