

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-5713-2022

Date of Decision:-18.04.2024

Sukhwinder Singh @ Sukha.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. K.S. Derabassi, Advocate for the Petitioner.

Mr. Mohit Saroha, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 482 Cr.PC is for the setting aside or modifying the impugned order dated 31.01.2022 (Annexure P-4) passed by the Sub Divisional Judicial Magistrate, Kharar in case bearing FIR No.0004 dated 03.01.2022 under Section 61-1-14 of the Punjab Excise Act, 1914 registered at Police Station City Kharar, District SAS Nagar (Mohali), Punjab.

2. The brief facts of the case are that FIR No.0004 dated 03.01.2022 under Section 61-1-14 of the Punjab Excise Act, 1914 Police Station City Kharar, District SAS Nagar (Mohali), Punjab came to be registered against the petitioner. As per the allegations the petitioner was found carrying illicit liquor in a vehicle i.e. Mahindra Pick Up bearing registration number PB-11-CT-9269.

3. During the course of the trial, an application was moved by the

petitioner for releasing the said vehicle Mahindra Pick Up bearing registration number PB-11-CT-9269 on superdari on the grounds that the petitioner was the registered owner of the same. While allowing the prayer of the petitioner, the court of SDJM, Kharar passed the following order:-

“ However, no useful purpose would be served by keeping the said vehicle in police custody. Accordingly, the vehicle is ordered to be released on superdari to the applicant, on furnishing cash surety of Rs.5 Lac, subject to the conditions that he will not sell the same, change its colour or condition and will produce the same as and when required by the Court to do so, till the disposal of the case. Cash amount not deposited. Application stands disposed of accordingly. Papers be tagged with the main file.”

3. The instant petition has been filed challenging the condition imposed by the court while releasing the vehicle on superdari.

4. The learned counsel for the petitioner contends that the petitioner was a poor person and was unable to furnish cash surety of Rs.5 lacs. However, he was ready and willing to submit adequate surety in the shape of property. He was also ready and willing to furnish an undertaking that he would not sell the vehicle and or change its colour and would produce the same as and when required by the court. He, therefore, contends that the conditions imposed in the order be modified suitable. Reliance is placed on the judgment of this Court in **CRM-M-47871-2019** titled as **Balwinder Singh Vs. State of Punjab Decided on 08.11.2019**.

5. The Counsel for the State on the other hand contends that petitioner was found carrying country made liquor in the vehicle in question.

While releasing the vehicle on superdari the court had imposed the right

conditions as per law.

5. I have heard the learned counsel for the parties.
6. In view of the financial condition of the petitioner and the order of this Court in *Balwinder Singh’s (supra)* the order dated 31.01.2022 is modified to the extent that the petitioner shall furnish two solvent sureties to the extent of Rs.5 lac. The remaining conditions of the order dated 31.01.2022 passed by the court of SDJM, Kharar shall however remain intact.
7. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 18, 2024
Vinay

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