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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9846-2024
Date of decision: 26.02.2024

Sukhchain

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Brijender Kaushik, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing/setting aside a condition of deposit of Rs.2 lacs of penalty amount in the form of fixed deposit, imposed by the Court of Judicial Magistrate, Ist Class, Ambala while passing order dated 18.01.2024 (Annexure P-3) whereby the application filed by the petitioner for release of his vehicle number HR-04-L-0401 on superdari was allowed subject to aforesaid condition in a criminal case having FIR No.74 dated 18.12.2023, under Section 21(1) of Mining and Mineral Act (Regulation of Development) 1974 and Section 379 IPC, Police Station HSEnB, Ambala.
2. Counsel for the petitioner submits that the aforesaid vehicle belonging to the petitioner was seized by the concerned Authorities in aforesaid criminal case and the Court of Illaqa Magistrate while passing

order (Annexure P-3) imposed condition that the petitioner should also deposit Rs.2 lacs of penalty amount. It is further submitted that the aforesaid onerous condition deserves to be set aside as per the law laid down by Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai Vs. State of Gujarat (2002) 10 SCC 283*** and latest decision of Hon'ble Supreme Court in SLP(Crl)-4797-4799/2023 titled Ikram Vs. State of Rajasthan decided on 04.05.2023.

3. Notice of motion.

4. Mr. Neeraj Sheoran, DAG, Haryana., accepts notice on behalf of the State and while supporting the order (Annexure P-3) submits that as the vehicle in question was involved in illegal mining, the Court of Illaqa Magistrate rightly imposed the condition of deposit of Rs.2 lacs of the penalty imposed by the Mining Officer.

5. I have considered the submissions made by counsel for the parties.

6. As the FIR is registered in the present case, the release of vehicle on superdari will be governed by provisions of Section 451 Cr.P.C. I have gone through the judgment referred by counsel for the petitioner. In **Ikram's case** (supra), vehicle in question was directed to be released on superdari by the Court below subject to furnishing of bank guarantee of Rs.5 lacs which was later on modified and instead of bank guarantee, the petitioner was directed to deposit original title deed of the land of his close relative. The Hon'ble Supreme Court in appeal modified the said condition with direction that the vehicle be released subject to furnishing of a personal bond together with an undertaking that he will not transfer the vehicle till conclusion of

the trial and produce the same as and when required.

7. In light of the above, without expressing any opinion on the merits of the case, this Court is of the view that onerous condition directing the petitioner to deposit Rs.2 lac in the shape of fixed deposit is not sustainable and deserves to be set aside.

8. Consequently, the present petition is allowed and the impugned order Annexure P-3 dated 18.01.2024 is set aside to the extent whereby the petitioner is directed to deposit Rs.2 lac in the shape of fixed deposit. The petitioner should furnish a personal bond with one solvent surety in the same amount to the satisfaction of the Court concerned. The other conditions imposed by the trial Court are however sustained.

9. The present petition is disposed of in aforesaid terms.

26.02.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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