

CRM-M-11718-2024
Date of decision: 06.03.2024

Manovar KhanPetitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishal Khatkar, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking quashing/setting aside of condition of Rs.2 lakhs of penalty amount in the form of fixed deposit imposed vide impugned order dated 08.02.2024 (Annexure P-3) passed by the learned Judicial Magistrate 1st Class, Ambala in case FIR No.76 dated 15.01.2024 under sections 21(1)/21(4)(A) of Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 of IPC registered at Police Station HSEnB, Ambala.

Learned counsel for the petitioner submits that the petitioner is the owner of the vehicle which was seized by the concerned authorities in the FIR (*supra*) and the learned Judicial Magistrate 1st Class, Ambala, while passing the impugned order dated 08.02.2024 (Annexure P-3) has imposed a penalty of Rs.2 lakhs for releasing the vehicle owned by the petitioner on *sapurdari* and he further submits that the onerous condition deserves to be set aside and placed reliance upon the order passed by this Court in '*Sukhchain Vs. State of Haryana*' CRM-M-9846-2024 decided on 26.02.2024 (Annexure P-4).

Notice of motion.

Ms. Geeta Sharma, DAG, Haryana puts in appearance and accepts notice on behalf of the respondent-State and opposes the prayer made by the petitioner on the ground that the vehicle in question was involved in illegal mining and the Judicial Magistrate 1st Class, Ambala, has rightly imposed the condition of penalty of Rs.2 lakhs on the basis of the recommendation of the Mining Officer.

Having heard learned counsel for the parties and after perusing the record, the release of the vehicle seized in an FIR (*supra*) is governed by the provision of Section 451 of Cr.P.C. and the case of the petitioner would be covered by the judgment of the Hon'ble Apex Court passed in 'Sunderbhai Ambalal Desai Vs. State of Gujarat' (2002) 10 SCC 283 and 'Ikram and another Vs. State of Rajasthan' 1984 RajCriC 274. The Hon'ble Supreme Court in ***Ikram's case (supra)*** has set aside the condition of penalty of Rs.5 lakhs for releasing the vehicle on *sapurdari* and directed the petitioner therein to furnish the personal bond along with an undertaking that he will not transfer the vehicle till the conclusion of the trial and would be bound to produce the vehicle as and when required.

I have heard learned counsel for the parties and with their consent, the case is taken up for final disposal.

In view of the above, without expressing opinion on the merits of the case lest it may prejudice the outcome of the trial, the condition as imposed vide impugned order for depositing of Rs.2 lakhs in the shape of Fixed Deposit is set aside. Accordingly, the present petition is allowed. The petitioner is directed to furnish personal bond with one surety in the like amount to the

satisfaction of the jurisdictional Magistrate and would also furnish an undertaking that he will not transfer the vehicle in question during the pendency of the trial and he would produce the same as and when required.

(HARPREET SINGH BRAR)
JUDGE

06.03.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No