

2024:PHHC:114161-DB



CWP-16823-2022 (O&M)

Date of Decision: 02.09.2024

Karnail Dass

...Petitioner

Vs.

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present Mr. Vishal Goel Advocate for the petitioner.

Mr. Saurabh Kapoor, Addl. AG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this writ petition has challenged the vires of amended proviso to Section 78(2) of the Punjab Excise Act, 1914, which provided that the security for release for confiscated conveyance, be restriped to cash security or bank guarantee.

2. The petitioner's vehicle was seized in connection with FIR No.120 dated 06.07.2019 under Section 61/1/14 of the Punjab Excise Act. The petitioner also challenged the order dated 16.09.2019 and 01.10.2019, whereby his application for release of vehicle was allowed subject to furnishing bank guarantee in the sum of Rs.10 Lakh.

3. On 28.03.2023, this Court had passed the following order:-

CM-3805-CWP-2023*Notice of this application.**Mr. Saurabh Kapoor, Additional Advocate General, Punjab
accepts notice on behalf of the respondents.*

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Application is allowed and the Excise and Taxation Department, Punjab through Commissioner, Excise and Taxation Bhawan, Sector 69, SAS Nagar is impleaded as respondent No. 4.

Amended memo of parties is taken on record.

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Learned counsel for the petitioner has referred to an order dated 28.01.2020 passed by this Court in CWP-24941-2019 titled as Darshan Singh vs. State of Punjab wherein vehicle had been retained in the police custody since March, 2013 and it was not being released on superdari. This Court had disposed of the writ petition by giving direction to the respondents to accept 20% of the assessed amount in cash and, thereafter, security for the remaining amount and release the vehicle to the satisfaction of the trial Court.

In the present case also, direction is being given to the respondents to accept 20% in cash and accept security in the form of bank guarantee for the remaining amount and release the vehicle which has been in custody since 06.07.2019.

List on 24.04.2023.”

4. Vide another order dated 24.04.2023, this Court reiterated its earlier order by observing that:-

CM-16990-CWP-2022

Notice of this application.

Mr. Saurabh Kapoor, Additional Advocate General, Punjab accepts notice on behalf of the official respondents. He seeks time to file reply to the application.

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Learned counsel for the State is directed to release the vehicle after accepting 20% in cash and security for the remaining amount in view of order dated 28.03.2023 before the next date of hearing.

List on 26.05.2023.”

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5. Learned counsel for the petitioner submits that the petitioner had applied for release of the vehicle but the same is not in fit condition and the matter is still pending before the learned trial Court.
6. Having noticed the aforesaid facts, we do not intend to keep this writ petition pending further as the question regarding vires of the amended proviso to Section 78(2) of the Act, 1914, has become academic so far as the present case is concerned and the directions for release of vehicle would be governed by the order passed by this Court as above.
7. In view of the above, the writ petition is disposed of. The order dated 28.03.2023 and 24.04.2023, are made absolute. The trial Court shall now proceed and take steps to release the vehicle.
8. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

02.09.2024
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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |