



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M-37522-2024
Decided on : 06.08.2024**

KRISHAN

. . . Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Rohit Mittal, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. for quashing/setting aside/modifying the impugned order dated 27.10.2023 (Annexure P-2) passed by SDJM, Kanina as well as impugned order dated 20.07.2024 passed by Ld. Additional Sessions Judge, Narnaul (Annexure P-3) under Section 451 Cr.P.C., in case FIR No.7 dated 11.08.2023 under Section 379 of the IPC, 21(1), 21(4) of the Mines and Minerals Regulation of the Development Act, 1957 registered at Police Station HSENB, District Rewari (Annexure P-1).

2. The counsel for the petitioner contends that an FIR had been lodged against him in violation of the Mines and Minerals Rules. Additionally, it has been argued that while releasing his vehicle on superdari, the Court had unduly imposed stringent conditions, mandating a 50% cash deposit of Rs.4,15,465/- along with supurdginama amounting to Rs.10 lacs with one surety of same amount. It has been urged by the learned counsel that the conditions imposed by the trial Court were against the settled law and undermined the essence of Section 451 of the IPC. The petitioner in



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support of his submissions, has placed reliance upon ***Keshab Narayan Banerjee and another versus State of Bihar, AIR 1985 SC 166***. He has also placed reliance on the judgment passed by this Court vide order dated 12.01.2024 titled as ***“Ashok Kumar Vs. State of Haryana”*** in CRM-M-1560-2024.

3. Notice of motion.

4. Mr. Anmol Malik, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

5. Learned State counsel has submitted that FIR had been rightly registered as offence under the Indian Penal Code i.e. Section 379, had also been committed by the petitioner. Furthermore, the condition of furnishing supurdginama (bond) of Rs.10 lacs had also been rightly imposed by the trial Court to prevent the petitioner from disposing of the vehicle in question during the pendency of the trial.

6. Learned State counsel has thus asserted that the second condition of imposition of Rs.10 lakhs supurdginama of like amount was as per the provisions of law.

7. I have heard learned counsel for the parties and perusal the relevant material placed on record.

8. Undoubtedly, the trial Court is empowered to impose conditions under Section 451 of the IPC, however, these conditions must not be excessively burdensome to the extent of practically negating the relief sought by an individual, as in the instant case. The Hon'ble Supreme Court has unequivocally disapproved of such practices in catena of judgments. Thus, this Court finds merit in the submissions made by the learned counsel for the petitioner regarding the onerous condition of 50% cash deposit



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is modified and reduced to 25%.

9. Nevertheless, upon a careful perusal of the impugned order, this Court discerns no justification to set aside/modify the requirement of furnishing supurdginama (bond) amounting to Rs.10 lacs with surety in the like amount. The State has rightly asserted that this condition is imperative to prevent the petitioner from disposing of the vehicle in question during the trial.

10. Accordingly, the present petition is allowed and the impugned order dated 27.10.2023 and 20.07.2024 is modified and the vehicle is ordered to be released on condition of 25% cash deposit on superdari to the petitioner on his furnishing supurdginama (bonds) of Rs.10 lacs to the satisfaction of the trial Court/Duty Magistrate subject to the condition that the petitioner shall furnish an undertaking to the effect that:-

- (i) he will preserve the vehicle in the same condition during the pendency of the trial;
- (ii) he will not sell, dispose of, alienate or mortgage etc. the vehicle, during pendency of the trial;
- (iii) he will produce the vehicle before the trial Court as and when directed to do so and;
- (iv) he will ensure that the vehicle is not involved in any other criminal case.

11. In case of violation of the undertaking by the petitioner, liberty is granted to the prosecution to seek cancellation of the superdari bond.

(KIRTI SINGH)
JUDGE

06.08.2024
Kavita Nain

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No