

2024:PHHC:146570



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

**CRM-M-39051-2024 (O&M)
DECIDED ON: 12.08.2024**

PARTAP SINGH

....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON/BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Amarinder Kaur, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab

SANDEEP MOUDGIL, J

CRM-32084-2024

Application is allowed, as prayed for.

CRM-M-39051-2024

The jurisdiction of this Court under Section 528 of BNSS has been invoked seeking setting aside the order dated 16.04.2024 (Annexure P-3) passed by Additional Sessions Judge, Barnala, whereby, the criminal revision petition preferred by the petitioner against the order dated 07.02.2024 (Annexure P-2) passed by Chief Judicial Magistrate, Barnala qua furnishing the bank guarantee of Rs.7,00,000/- for the release of vehicle make Truck bearing registration No. RJ-40-GA-0435 in FIR No.2 dated 05.01.2024 under Section 61, 78 (2) of Punjab Excise Act, 1914 registered

Learned counsel for the petitioner has relied upon the orders dated 23.02.2021 and 03.03.2021 passed by co-ordinate Bench of this Court in CRM-M-18703-2020 and CRM-M-28600-2020 titled as 'Arshdeep Singh vs. State of Punjab' and 'Manjit Singh vs. State of Punjab' respectively.

Learned counsel for the petitioner submits that the trial Court has put very stringent condition of furnishing bank guarantee on the petitioner, which is as good as payment in cash. It is further submitted that there is no such provision under Section 78 (2) of Excise Act to direct furnishing of bank guarantee, as in the interest of justice, the trial Court could have ordered furnishing the security bond equivalent to value of the vehicle. It is also submitted that the vehicle is lying unused since the date of registration of FIR i.e. 05.01.2024 and almost a period of seven months has lapsed and with the passage of time, it will outlive its life, as it is lying parked in the police station in an open space. Since the petitioner is unable to furnish the bank guarantee of Rs.7.00,000/-, he is ready to furnish security bond and therefore, condition imposed in the impugned order dated 07.02.2024 (Annexure P-2), which was subsequently affirmed by the Appellate Court vide its order dated 16.04.2024 (Annexure P-3) may be substituted with the condition of furnishing security bond, for releasing the vehicle bearing registration No. RJ-40-GA-0435 in FIR No.2 dated 05.01.2024 under Section 61, 78 (2) of Punjab Excise Act, 1914 registered at Police Station Mehal Kalan, District Barnala.

Learned State counsel has supported the order passed by the trial Court, which is based on new policy issued by the Punjab govt. under Section 78 (2) of the Act, which provides that the vehicle cannot be released

during the trial, as the same is liable to be confiscated, however, the Magistrate may give an option to pay an amount equal to the value of the vehicle on submission of security (in form of cash security or bank guarantee).

After hearing learned counsel for the parties, considering the hardship being faced by the petitioner that he is unable to get his vehicle released for the last seven months and also in view of the fact that the vehicle is lying unused and parked in police station in an open space and may outlive its life, I deem it appropriate to substitute the condition of furnishing bank guarantee of Rs.7,00,000/- with furnishing of personal bond in a sum of Rs.7,00,000/- and additional security bond of Rs.7,00,000/-.

Accordingly, this petition is allowed and the orders dated 07.02.2024 (Annexure P-2) and 16.04.2024 (Annexure P-3) passed by the trial Court is set aside.

With aforesaid modification, present petition stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

12.08.2024

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Whether Speaking/Non-Speaking: Yes/No
Whether Reportable: Yes/ No