

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-40889-2023

Date of decision: 16.04.2024

RAJWANT KAUR

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. V.K. Sandhir, Advocate
for the petitioner.

Mr. Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition under Section 482 Cr.P.C, prayer is made for quashing of the impugned order dated 28.07.2023, (Annexure P-4), passed by learned Additional Chief Judicial Magistrate, Amritsar, whereby, the grievance raised by the petitioner is not on the legality of the order passed by the learned trial Court concerned, but, the only grievance which is raised is regarding the onerous conditions imposed upon the petitioner, while releasing the impounded vehicle on sapurdari. The vehicle i.e. E-Rickshaw was impounded in FIR No.218 dated 17.07.2023, (Annexure P-1), under Section 61 of the Punjab Excise Act, at Police Station Sadar, Amritsar.
2. The petitioner being the owner of the vehicle i.e. E-Rickshaw preferred an application for releasing the vehicle on sapurdari, which found favour, and the ACJM, Amritsar, proceed to allow the application vide order dated 28.07.2023. However, subject to the condition that petitioner shall furnish

sapurdari bonds in sum of Rs.1,50,000/-, along with cash security or bank guarantee of equal amount. In order to impose the condition (supra), the learned trial Court concerned relied upon Section 78 of the Punjab Excise Act, 1914.

4. Learned counsel for the petitioner submits that the condition imposed upon the petitioner for releasing the vehicle on sapurdari is onerous, rather the total value of the vehicle is not Rs.1.5 lacs. Learned counsel for the petitioner further submits that because of harsh conditions imposed upon the petitioner, the petitioner is unable to pay the said amount, therefore, the release order is of no use, as petitioner is unable to comply with the same. Learned counsel for the petitioner further draws attention of this Court, to the judgment passed in ***Tejinder Singh @ Honey Vs. State of Punjab***, wherein, the similar conditions were imposed, at the time of releasing the vehicle on sapurdari was modified to the extent of submitting personal bonds of the same amount. The relevant extract of the same, reads as under:-

"6. It is not in dispute that the application, which had been filed by the petitioner for releasing the vehicle, in question, on Superdari, has been found to be meritorious and was allowed. While allowing the said application, it was observed in the order dated 13.09.2021 that no useful purpose would be served by keeping the said vehicle, which was a Scorpio car and was of 2010 model, in custody as it would deteriorate the condition of the vehicle. Although, the said order was passed on 13.09.2021 but on account of the condition of deposit of security to the tune of Rs.3,00,000/- in the form of cash security or Bank guarantee, the petitioner has not been able to get the said vehicle released and thus, the the same shows that the said condition of the impugned order is onerous. The Coordinate Bench of this court in Arshdeep Singh's case has held as under:-

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 one and half year 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.2.50 lacs with furnishing of personal bond in a sum of Rs.2.50 lacs and additional security bond of Rs.2.50 lacs.

Accordingly, this petition is allowed and the order dated 24.06.2020 passed by the trial Court is set aside.

With aforesaid modification, present petition stands disposed of."

7. *Even the above case is a case in which a condition of furnishing bank guarantee of Rs. 2.50 Tacs was imposed for the release of the vehicle, in question, on superdari and the said condition was modified after considering the hardship that was being faced by the petitioner therein.*

8. *The facts of the case of the present petition are similar to the facts of the above said case.*

9. *Keeping in view the above said facts and circumstances, the present petition is allowed and the impugned order dated 13.09.2021, only to the extent that a condition has been imposed for "deposit of security to the tune of Rs.3,00,000/- in the form of cash security or Bank guarantee", is modified and instead of the said condition, the following condition would have to be complied with by the petitioner:-*

1(i) The petitioner would submit personal bond in sum of Rs.3,00,000/- and also additional security bond of Rs.3,00,000"

5. Learned counsel for the petitioner placed reliance upon the judgment passed by the Division Bench of this Court in, ***Darshan Singh and others Vs. State of Punjab and others, 2021 (2) law Herald 1085***, wherein, the vehicle was ordered to be released on sapurdari, on depositing of 20 per cent of the assessed amount, in cash, and give security for the remaining amount.

6. I have considered the submissions made by learned counsel for the petitioner, as well as the judgment passed by the Co-ordinate Bench, and has no hesitation to observe that the condition imposed upon the petitioner, is an onerous condition, and therefore, the same is required to be modified.

7. Keeping in view the above observations, the present petition is

allowed, and the impugned order dated 28.07.2023, (Annexure P-4), is ordered to be modified to the extent that the petitioner shall furnish personal bond in sum of Rs.1.5 lac, and also additional security bond of the same amount.

8. **Disposed** of accordingly.

16.04.2024
amandeep

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No