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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-44865-2024 (O&M)
Date of decision: 10.09.2024

Umesh Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ramandeep, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 528 of BNSS, 2023 for setting aside the order dated 27.05.2020 (Annexure P-4), passed by the Judicial Magistrate First Class, Samana in case FIR No. 154 dated 12.07.2019, registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Patran, District Patiala to the extent to which the condition of furnishing bank guarantee to the tune of Rs. 1,50,000/- has been imposed for releasing the vehicle bearing registration number PB-13-AR-6544 on *superdari*.
2. Learned counsel for the petitioner has submitted that the aforesaid FIR was registered against the petitioner and his brother and vehicle bearing No. PB-13AR-6544, which is in the ownership of the present petitioner, was allegedly involved in the said case and hence, it was confiscated by the police. It is submitted that an application was moved for releasing the vehicle on *Superdari*, which was allowed, vide order dated

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27.05.2020, however, a condition was imposed to the effect that the same would be released on deposit of bank guarantee to the tune of Rs.1,50,000/- and certain other conditions were also imposed. He has further submitted that the petitioner is ready to fulfill all the conditions mentioned in the order but has submitted that the condition with respect to deposit of security to the tune of Rs.1,50,000/- in the form of cash security or Bank guarantee is very onerous and instead of the said condition, a condition be imposed for furnishing of a personal bond in the sum of Rs.1,50,000/- and an additional security bond of Rs.1,50,000/-. Learned counsel for the petitioner has relied upon a judgment of the coordinate Bench of this court passed in **CRM-M-18703-2020** titled as **Arshdeep Singh Vs. State of Punjab**, decided on 23.02.2021.

3. Learned State counsel, who has advance notice of the petition, has opposed the present petition and has submitted that the condition which has been imposed with respect to the deposit of bank guarantee to the tune of Rs.1,50,000/- is just and reasonable and the impugned order warrants no interference by this Court.

4. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

5. 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. Although, the said order was passed on 27.05.2020, however, on account of the condition of deposit of bank guarantee to the tune of Rs.1,50,000/-, the petitioner has not been able to get the said vehicle released, thereby showing that the said condition of the

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impugned order is onerous. The coordinate Bench of this court in *Arshdeep Singh's* case (supra) has held as under:

“XXX—XXX--XXX

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.”

6. On a perusal of the aforesaid order, which has been placed on record by the petitioner, it is revealed that even in the said case, a condition of furnishing bank guarantee of Rs. 2,50,000/- 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. The facts of the case of the present petition are similar to the facts of the abovesaid case.

7. Therefore, keeping in view the abovesaid facts and circumstances as well as the ratio of law as laid down in *Arshdeep Singh's* case (supra), the present petition is allowed and the impugned order dated 27.05.2020 is modified only to the extent whereby a condition has been imposed upon the petitioner for furnishing bank guarantee to the tune of Rs. 1,50,000/- and

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instead of the said condition, the following condition would have to be complied with by the petitioner:-

“1. The petitioner would submit personal bond in the sum of Rs.1,50,000/- and also additional security bond of Rs.1,50,000/-.”

8. The other conditions as mentioned in the order would remain the same.
9. With the aforesaid modification in the impugned order, the present petition stands allowed.

10.09.2024

Waseem Ansari

(MANISHA BATRA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No