2024:PHHC:064893

258-c **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-56123-2022
Decided on:-01.05.2024

Surender ....Petitioner..

vs.

State of Haryana and another ....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Vaishali Kamboj, Advocate,
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

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HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, prayer has been made for seeking modification of order dated 29.09.2021 passed by the Court of Sub Divisional Judicial Magistrate, Naraingarh, whereby an application for release of vehicle i.e. Tipper/Dumper bearing registration No.HR-37E-0812 on supardari, was allowed with strict punitive condition.

2. In the present case, application for release of vehicle i.e. Tipper/Dumper bearing registration No.HR-37E-0812, involved in FIR No.361, dated 06.09.2021, under Section 21(1) of the Mines and Minerals (Regulation and Development) Act, 1957 read with Sections 188 and 379 of IPC, Police Station Naraingarh, was filed on behalf of the petitioner before the Sub-Division Judicial Magistrate, Naraingarh, which came to be

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disposed of vide order dated 29.09.2021 while allowing the prayer made by the petitioner for release of his vehicle on supardari on furnishing superdarinama in the sum of Rs.20,00,000/- with one surety in the like amount, subject to the following conditions:-

> *(i) That the applicant shall not change the colour and description of the vehicle-in-question.*
>
> *(ii) That the applicant shall not alienate the vehicle-in-question without prior permission of the court;*
>
> *(iii) That the applicant shall produce the vehicle-in-question in the court as and when asked by the court.*
>
> *(iv) That the applicant shall furnish bank guarantee of a sum equal to amount of fine/penalty imposed by the mining department, within a period of two months from today."*

3. The short grievance raised by learned counsel representing the petitioner is about condition No. (iv) whereby, the petitioner has been directed to furnish bank guarantee of a sum equal to amount of fine/penalty imposed by the mining department, within a period of two months from the date of passing of the order. He submits that the same being onerous, makes the order dated 29.09.2021, burdensome and unjustified.

4. The prayer made in the present petition has been opposed at the instance of learned State counsel while submitting that considering the nature of offence, the impugned order warrants no interference.

5. I have heard learned counsel for the parties and gone through the paper book, I find substance in the submissions made on behalf of the petitioner.

6. Reliance has been placed upon by the learned counsel for the

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petitioner, to an order dated 06.10.2023 passed by this Court in ***CRM-M-50275-2023***, titled as ***"Happy Kumar vs. State of Haryana and another",*** wherein, under similar circumstances, the owner of the vehicle involved in case under the Mines and Minerals (Development and Regulation)Act, 1957 was directed to furnish supardaginama, rather than depositing the cash amount.

7. Relying upon the same, present petition is disposed of with a slight modification in the order dated 29.09.2021 passed by the Sub Divisional Judicial Magistrate, Naraingarh and the condition (iv) herein above shall now be read as under:-

(iv) Petitioner shall furnish proof/title of his ownership supardaginama for a sum equal to the amount of fine/ penalty imposed with one surety in the like amount to the satisfaction of trial/Duty Magistrate.

7.1 It is made clear that the aforesaid modification shall be in addition to clause (iv) reproduced herein above and rest all the conditions imposed vide order dated 29.09.2021 passed by the Sub Divisional Judicial Magistrate, Naraingarh shall remain the same and in case of any violation thereof, the State shall be at liberty to seek restoration of the vehicle in question.

8. Disposed of

9. All pending applications stand disposed of.

01.05.2024 **(HARKESH MANUJA)**
sonika **JUDGE**

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

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