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

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CRM-M-38775-2025 (O&M)

Date of decision: 22.07.2025

Swaran Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. Eklavya Darsi, DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) seeking quashing of order dated 25.04.2025, passed by the Court of learned Judicial Magistrate First Class, Nihal Singh Wala in case arising out of FIR No. 38 dated 24.03.2025, registered under Sections 106(1), 285, 324(2) of Bharatiya Nyaya Sanhita, 2023 at Police Station Badhni Kalan, Moga, whereby while allowing the application of the petitioner for release of the vehicle on *superdari*, a condition to furnish *superdari* bond to the tune of Rs.4,00,000/- with one solvent surety and bank guarantee in the sum of Rs. 40,00,000/- has been imposed.

2. Learned counsel for the petitioner has submitted that the aforesaid FIR was registered against one Bikkar Singh for rash and negligent

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driving of horse trailer bearing registration number PB-13-R-7547. The said vehicle, which is owned by the petitioner, was confiscated by the police. The petitioner has moved an application for release of the said vehicle on superdari, which has been allowed by the learned trial Court. However, the aforesaid condition has been imposed, which is excessive, arbitrary and unreasonable. The learned trial Court has not given any specific reasoning for subjecting the petitioner to furnish bonds to the extent of such huge amount. It is further argued that the condition imposed by the learned trial Court in the impugned order is contrary to the mandate of Section 484 of BNSS, 2023, which expressly states that the amount of bond shall be fixed with due regard to the circumstance of the case and shall not be excessive. Hence, it is urged that the petition deserves to be allowed and the impugned order deserves to be quashed/modified, thereby reducing the amount of surety to a reasonable amount.

3. *Per contra*, learned Deputy Advocate General, Punjab, who has advance notice of the petition and is ready to argue the matter, has submitted that there is no infirmity or illegality in the impugned order. Hence, the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have gone through the material placed on record.

6. The aforesaid vehicle has been ordered to be released in favour of the petitioner, who is the registered owner of the same. However, the said vehicle could not be got released to the petitioner as the petitioner could not arrange *superdari*/surety bonds as well as the bank guarantee, which

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according to him is excessive, arbitrary and contrary to the settled law. In the considered opinion of this Court also, the condition regarding furnishing of bonds/bank guarantee is on excessive side. Learned counsel for the petitioner has rightly made a reference to Section 484 of BNSS, 2023, according to which, the bond amount should not be excessive. Reliance can be placed upon ***Sagayam @ Devasagayam vs. The State of Tamil Nadu : 2017 (3) CTC 291***, wherein similar observations were made by the Madras High Court. Similarly, in ***Satender Kumar Antil vs. Central Bureau of Investigation and another : (2022) 10 SCC 51***, Hon'ble Supreme Court has observed that the amount of every bond is to be fixed with regard to the circumstances of the case and shall not be excessive. This is a salutary provision which has to be kept in mind. The conditions imposed should not be mechanical and uniform in all cases. It is a mandatory duty of the Court to take into consideration the circumstances of the case and satisfy itself that it is not excessive. Reference can also be made to the authority cited as ***Guddan @ Roop Narayan vs. State of Rajasthan : 2023 (1) RCR (Criminal) 762***, whereby the Hon'ble Supreme Court while reiterating the judicial concern against fixation of excessive conditions which tantamount to refusal to grant of relief has made similar observations.

6. In view of the discussion as made above, this Court is of the considered opinion that the condition imposed by the trial Court upon the petitioner in the impugned order is excessive and onerous and the same needs to be modified in order to enable the petitioner to comply with it. Accordingly, the present petition is disposed of, thereby modifying the impugned order dated 25.04.2025 to the extent that the aforesaid vehicle shall

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be released in favour of the petitioner on furnishing *superdari* bond in the sum of Rs. 2,00,000/- and one surety in the like amount.

22.07.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>