

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

Crl.Appeal No.1429-SB of 2005

Date of Decision: 08.01.2015

Kuljit Singh

.....Appellant

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present:- Mr.Vineet Sharma, Advocate for the appellant.

Mr.Arshdeep S. Kler, DAG Punjab.

RAJ RAHUL GARG, J., (ORAL)

This is an appeal directed against the order dated 12.04.2005, rendered by Sh.Gurdev Singh, the then Ld. Sessions Judge, Amritsar, whereby appellant-Kuljit Singh was directed to pay ₹25,000/- as penalty to the State of Punjab as he stood surety for accused Dilbag Singh of FIR No.111 dated 16.05.2002, who absented himself from the Court on 06.01.2005.

Dilbag Singh was accused in FIR No.111 of 2002 under Section 302/34 IPC. He was granted bail vide order dated 31.07.2003 and was ordered to be released on his furnishing bond in a sum of ₹25,000/- with a surety in the like amount. At that time one Mangal Singh stood surety for him. Thereafter, Dilbag Singh absented himself from the Court on 22.01.2004 as a result, his bail was cancelled. However, he surrendered himself before the Court on that very day and

remanded to the judicial custody but lateron he was allowed bail vide order dated 09.02.2004. At this juncture, Kuljit Singh-appellant stood surety for him and executed surety bond in a sum of ₹25,000/- for the appearance of aforesaid accused Dilbag Singh before the Court on each and every date of hearing. Accused-Dilbag Singh again absented himself from the Court on 06.01.2005. Accordingly, the bail order of accused-Dilbag Singh was cancelled and bail bonds were forfeited to the State. Notice under Section 446 Cr.P.C. was issued to the appellant to show cause as to why he be not directed to pay ₹25,000/- as penalty. In reply to that notice, appellant submitted reply taking the plea that the absence of accused was not intentional but on account of his involvement in a criminal case under Section 379/411 IPC , the accused was confined in Central Jail, Amritsar. At this the trial Court directed the surety to produce evidence in support of his version but instead of producing evidence appellant-surety absented himself from the Court. Under those circumstances, treating the absence of appellant as his failure to show any cause for not imposing penalty, appellant-surety was directed to pay the amount of forfeited bail bonds as penalty to the State. As such he was directed to pay ₹25,000/- as a penalty to the State of Punjab.

Against the aforesaid order of penalty, the appellant has come up in this appeal before this Court.

I have heard Sh.Vineet Sharma, Advocate for the appellant and Sh.A.S.Kler, counsel for the State and perused

the entire material coming on record.

It was contended by learned counsel for the appellant that the absence of accused Dilbag Singh in the case was not intentional since he was arrested in another theft case, therefore, he was confined in jail, hence, he could not appear in the Court. The circumstances were beyond the control of appellant-Kuljit Singh for which he cannot be penalized. In order to show the involvement of accused Dilbag Singh in theft case, counsel for the appellant placed on the file photocopy of report prepared under Section 173 Cr.P.C. bearing FIR No.6 dated 05.01.2005 under Section 379 IPC pertaining to Police Station, Ajnala. Of course, the memo of arrest of that case shows the arrest of accused Dilbag Singh on 07.01.2005, yet it was argued that in fact the accused was detained illegally by the police and had shown his arrest on 07.01.2005. From the registration of FIR on 05.01.2005, in which he was shown arrested on 07.01.2005 clearly shows that on account of involvement of Dilbag Singh accused in a theft case he was unable to attend the Court.

The above argument of learned counsel for the appellant carries weight. Even there is another circumstances available on file which shows that accused Dilbag Singh has already faced trial which ended up in acquittal. As such, it cannot be said that accused Dilbag Singh in any way misused the concession of bail and above all appellant-Kuljit Singh failed to produce accused in the Court intentionally. Whatever

absence was there that was on account of involvement of accused Dilbag Singh in a case of theft bearing FIR No.6 dated 05.01.2005. Thus, keeping in view all the above discussed circumstances, I am of the considered view that ends of justice would be met if this appeal is accepted. Accordingly, the appeal filed by surety Kuljit Singh is accepted and the impugned order of penalty dated 12.04.2005 passed by learned trial Court is set aside and the surety is discharged.

08.01.2015
anil

(RAJ RAHUL GARG)
JUDGE