

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Appeal No. S-356-SB of 2005
Date of Decision: 07.01.2015**

Gurinder Singh

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ajay Chaudhary, Advocate
for the appellant.

Ms. Dimple Jain, AAG, Haryana.

SABINA, J.

By way of this appeal, appellant has challenged the order dated 3.7.2004 whereby he was directed to deposit ₹ 25,000/- by way of penalty under Section 446 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short).

Learned counsel for the appellant has submitted that the appellant had stood surety for his son Jitender alias Happy. Son of the appellant could not appear before the Trial Court on 23.3.2004 as he was involved in another criminal case and remained in custody. In these circumstances, the impugned order is liable to be set aside.

Learned State counsel, on the other hand, has opposed the appeal.

Impugned order dated 3.7.2004 reads as under:-

“Gurender Singh surety of accused Jitender alias Happy

is present. Show cause notice under Section 446 Cr.P.C. has been served upon him to which it has been stated by him that he is ready to deposit the amount of Rs. 25,000/- for which he had furnished bail bonds and had stood surety for accused Jitender alias Happy. Statement recorded. He is directed to deposit the amount of Rs. 25,000/- in the Court. Amount of Rs. 25,000/- deposited in the Court.

Arguments heard on bail application of accused Jitender alias Happy.

Perusal of file shows that accused Jitendr alias Happy absented himself from the proceedings of the Court on 23.3.2004 and was produced on 27.5.2004 in custody.

Since accused Jitender alias Happy was confined in Central Jail Hisar in FIR No. 97 dated 19.3.2004 under Section 384/34 IPC, he is ordered to be admitted to bail on furnishing bail bonds in the sum of Rs. 50,000/- with three sureties in the like amount. Bail bonds not furnished. Now the file be put up on 14.7.2004, the date already fixed in the main case.”

A perusal of the impugned order reveals that when show cause notice was served on the appellant under Section 446 Cr.P.C., he had himself stated that he was ready to deposit the amount of ₹ 25,000/- qua which he had furnished the surety for accused Jitender alias Happy. In this regard, statement of the appellant was recorded as is evident from the impugned order.

Since the appellant had not contested the show cause notice served to him under Section 446 Cr.P.C. and he had himself

stated that he was ready to deposit the amount in question, no ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

January 07, 2015

Gurpreet