

In the High Court of Punjab and Haryana at Chandigarh

Crl. Appeal No. S-41-SB of 2005

Date of Decision: 07.01.2015

Man Singh

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

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

Ms. Dimple Jain, AAG, Haryana.

SABINA, J.

By way of this appeal, appellant has challenged the order dated 29.10.2004 whereby amount of surety was ordered to be recovered from him.

Learned counsel for the appellant has submitted that appellant had furnished surety qua accused Jitender alias Happy in FIR No. 149 dated 27.8.1998 under Section 25 of the Arms Act, 1959 ('Act' for short), registered at Police Station Bawani Khera. Accused Jitender alias Happy could not appear before the Trial Court on 23.3.2004 as he was confined in Central Jail Hisar in FIR No. 97 dated 19.3.2004 under Section 384/34 of the Indian Penal Code, 1860 ('IPC' for short). Learned counsel has further submitted that the appellant could not be penalized as the accused could not appear before the Trial Court on account of the fact that he was detained in another criminal case.

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

In the present case, admittedly, appellant had stood surety for accused Jitender alias Happy in FIR No. 149 dated 27.8.1998 under Section 25 of the Act, registered at Police Station Bawani Khera. Jitender alias Happy was confined in Central Jail Hisar in another FIR No. 97 dated 19.3.2004 under Section 384/34 IPC and due to this reason, he could not appear before the Trial Court on 23.3.2004 and was produced in custody before the Trial Court on 27.5.2004. Thus, the surety-appellant could not be held liable qua non-appearance of the accused in the Court on account of his involvement in another criminal case.

Accordingly, this appeal is allowed. Impugned order dated 29.10.2004 is set aside.

**(SABINA)
JUDGE**

January 07, 2015

Gurpreet