

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

CRA-S-1012-SB of 2014

Date of Decision: December 01, 2015

Davinder Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Lajpat Sharma, Advocate
for the petitioners.

Mr. J.S. Brar, AAG, Punjab.

FATEH DEEP SINGH, J.

Appellants-Davinder Singh and Sanjeev Kumar have impugned the orders dated 29.11.2013 of the learned Additional Sessions Judge, Fazilka, by way of appeal under Section 449 Cr.P.C whereby, the sureties have been directed to pay the penalty amount of the surety of sum of ₹1 lac each which they have earlier submitted in terms of Section 441 Cr.P.C.

The brief background is that FIR No.192 dated 10.9.2008 under Sections 364, 34 IPC was registered with Police Station, Sadar Abohar against accused Ravi Kumar and Jagjit Kumar @ Krori. The accused were allowed bail, whereby, appellant-Davinder Singh stood surety for accused Ravi Kumar and appellant-Sanjeev Kumar stood surety for accused Jagjit Singh in the said case and have undertaken to ensure that accused would appear before the trial Court on each and every date of hearing and had bound themselves by the amount of surety bonds in case of any violation of the terms and

conditions of the bonds undertaking to pay the surety amount. Both the accused who are real brothers, subsequently, absconded and as a consequence of which their bail orders were cancelled and the bail/surety bonds were ordered to be forfeited. Process was initiated under Section 446 Cr.P.C. against the sureties, who filed detailed reply denying the allegations leading to passing of the impugned orders directing them

to pay penalty to the extent of the surety amount so furnished by each of the surety. It is against this finding the appellants have come up before this Court.,

The appellant-Davinder Singh as is evident from the orders of this Court dated 12.3.2014 has withdrawn his appeal, whereas, on the request of the counsel for the appellant-Sanjeev Kumar appeal was admitted only qua the quantum of sentence (amount of penalty).

Heard. Learned counsel for the appellant could not impress upon this Court what special circumstances are there in favour of the appellant so as to exercise power for reduction of the penalty amount. Both the accused have absconded from the Court of law and by their undertaking in their surety bonds the appellants have undertaken to pay the amount of penalty in the consequence of any such eventuality and, thus, they are bound to pay the penalty amount commensurate with the amount of bonds so submitted by them. The learned trial Court had adopted due process of law in terms of Section 446 Cr.P.C. The appellants have been given due opportunity of hearing but they have not led any evidence in their defence as to why the amount of surety be not recovered from them or any special circumstance to show concession in the reduction of the amount of penalty. Having regard to the nature of the allegations and their being

total lack of stand of the appellants that they have made fervent efforts to trace the accused or special circumstances of undue hardship economic or otherwise does not calls for showing any leniency. The impugned order passed by the learned Court below does not suffers from any illegality or perversity and needs to be upheld. Thus, the appeal being hopelessly without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

December 01, 2015

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