

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

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CRM-M No.21275 of 2015.

Date of Decision: July 17, 2015.

Pawan

....Petitioner.

VERSUS

State of Haryana

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Ashwani Bhardwaj, Advocate for the petitioner.
Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

SNEH PRASHAR, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure (in short, "Cr.P.C.") for setting aside order dated 12.03.2015 passed by learned Additional Sessions Judge, Jind whereby proceedings under Section 446 Cr.P.C. were initiated against the petitioner.

Heard the submissions made by learned counsel representing the petitioner and learned Assistant Advocate General representing the State of Haryana.

In compliance of the order dated 20.02.2013 passed by learned Additional Sessions Judge, Jind, enlarging Parmod @ Kala on regular bail in case First Information Report No.1 dated 01.01.2012 under Sections 120-B/307/34 of the Indian Penal Code and section 27 of the Arms Act, 1959, registered at Police Station Sadar, Jind, on his furnishing bail bond in the

sum of Rs.40,000/- with two sureties in the like amount, the petitioner appearing as one of the sureties had furnished his surety bond to the tune of Rs.40,000/-. However, during the course of trial, accused Parmod committed default in appearance on 19.01.2015. On account of his absence, his bail was cancelled and the bonds furnished by him were forfeited to the State. A notice was issued to the sureties, in response to which the petitioner appeared in the court on 02.03.2015 and sought time to produce the accused. The matter was posted to 12.03.2015. On the said date also, the accused did not appear and learned trial court initiated proceedings under Section 446 Cr.P.C. against the petitioner and imposed a penalty of Rs.40,000/- on him.

It was submitted on behalf of the petitioner that there was no fault on his part as the circumstances under which accused Parmod could not appear in the court were beyond his control. Parmod was hospitalized, therefore, he was unable to produce him. It was on the said ground that in CRM-M-8022 of 2015 filed by him before this court praying for anticipatory bail he vide order dated 12.03.2015 was directed to appear before learned trial court and was given the relief that on his appearance he will be admitted to bail on furnishing fresh bonds. Learned counsel submitted that the total amount of surety bond has been imposed as penalty on the petitioner which is not justified.

Copy of the order dated 19.01.2015, the date on which accused Parmod committed default in appearance as well as copy of order dated 02.03.2015 and the impugned order dated 12.03.2015 have been produced

by the petitioner. The order dated 11.02.2015 vide which notice for initiating proceedings under Section 446 Cr.P.C. was given to the petitioner has not been produced. In any case, it is not the plea of the petitioner that when the accused absented he appeared in the court to inform that the accused was hospitalized. As reflected in the order dated 02.03.2015 on the warrant of arrest issued against the accused, it was reported that he was admitted in Fortis Hospital. On that day, the petitioner was present and had undertaken to produce the accused on the next date of hearing but he failed to do so and the impugned order dated 12.03.2015 was passed against him. In the said backdrop the petitioner cannot say that there was no violation on his part of the terms of the surety bond furnished by him.

Anyhow, considering the fact that in compliance of order passed by this court in CRM-M-8022 of 2015 accused-Parmod @ Kala has since appeared before learned trial court and has been admitted to bail on his furnishing fresh bonds, in my considered opinion the ends of justice would be served if the order dated 12.03.2015 passed by learned trial court is modified and the penalty imposed on the petitioner on account of forfeiture of his surety bond by learned trial court is reduced to Rs.3000/-. The petitioner will deposit the said amount in the court on the next date fixed before the trial court or on some subsequent date with permission of the trial court. In case of his failure to do so, this petition shall be deemed to be dismissed.

(SNEH PRASHAR)
JUDGE

July 17, 2015
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