

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Crl. Rev. No. 4048 of 2013

Date of decision : February 16, 2015

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Om Singh and another

.....Petitioners

Versus

State of Haryana

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sant Lal Barwala, Advocate for the petitioners.

Mr. Vikas Chopra, DAG, Haryana.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

Present revision petition has been filed against the order dated 23.8.2011 passed by the Court of District Magistrate, Hisar whereby in a proceeding initiated against appellants and sureties under Section 446 Cr.P.C, the personal bond for parole of the petitioners furnished in a sum of Rs.2.00 Lacs along with two sureties in like amount was ordered to be forfeited. Order dated 26.9.2013 passed by the Additional Sessions Judge, Hisar has also been impugned by the petitioners whereby an application for condonation of delay in filing the appeal was dismissed.

The petitioners stood surety for Narender alias Mota Son

of Satbir and he was released from the prison on 15.12.2010 on a six weeks' parole. He was to report back to the Jail Authorities on or before the due date i.e. 30.3.2010. But he did not surrender and proceedings under Section 446 Cr.P.C were initiated against the petitioners Om Singh and Sanjay Kumar.

Reply has been filed by the Superintendent, District Prison, Jind on behalf of respondent no.1. Convict Narender @ Mota was undergoing rigorous imprisonment for ten years under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act') in case FIR No. 201 dated 20.8.2000. The said convict was also convicted and sentenced to undergo life imprisonment in case FIR No. 64 dated 14.3.2002 under Section 302 IPC and 25 A.Act at Police Station Narnound. He was also convicted and sentenced to undergo rigorous imprisonment for fifteen years and to pay a fine of Rs.1,51,000/- in default of payment of fine he was further directed to undergo imprisonment for 8 months and 15 days in case FIR No. 148 dated 18.10.2011 under Section 15 of the NDPS Act at Police Station Uchana (Jind). For this accused, the petitioner had stood surety and he was released on agricultural parole for a period of 6 weeks on 15.2.2010 by the orders of the Divisional Commissioner, Hisar Range. At the time of grant of parole respondent directed the accused to surrender at Jail on 30.3.2010 but he did not surrender on 30.3.2010. He was thereafter arrested by the local police on 24.10.2010 i.e after a gap of almost 7 months. On an earlier occasion also, the accused remained at large

14.3.2002 to 7.1.2005 (1029 days). Details of cases in which the accused remained involved given in paragraph 2 of the written statement are as under:

Detail of Undergone cases

1. FIR No. 146/25.03.2002,U/S 8/9 P. Act, P.S.C.L. Hisar -Undergone by the Ld. Court of ACJM , Hisar dated 27.03.2006.
2. FIR No.84/14.03.2004,U/S 285/506/34 IPC & A. Act, P.S. Narnaund- Undergone by the Ld. Court of SDJM , Hansi dated 26.07.2006.
3. FIR No. 156/08.04.2010,U/S P. Act, P.S Narnaund- undergone by the Ld. Court of JMJC, Hisar dated 14.09.2012.

Detail of acquitted cases:-

1. FIR No. 185/01.04.1998 395IPC , P.S Meham – Acquitted by the Ld.Court of ASJ, Rohtak dated 22.02.2006.
2. FIR No. 118/01.06.1998,U/S 399/402 IPC,P.S Tosam- Acquitted by the Ld.Court of ASJ (FTC) , Bhiwani dated 29.08.2005.
3. FIR No. 332/29.05.2004,U/S 382 IPC , P.S. Sadar Hisar – Acquitted by the Ld. Court of ACJM , Hisar dated 14.07.2006.
4. FIR No. 106/17.05.2003,U/S 395/397 IPC, P.S. Sadar Hansi- Acquitted by the Ld. Court of ASJ, Hisar dated 09.03.2007.
5. FIR No.123/18.04.2004,U/S 398/401 IPC & A. Act, P.S. Narnaund- Acquitted by the Ld. Court of ASJ (FTC) , Hisar dated 10.08.2007.
6. FIR No. 117/01.06.2003,U/S 398/401IPC& A. Act. P.S. Narnaund – Acquitted by the Ld. Court of ASJ (FTC) , Hisar dated

16.11.2007.

7. FIR No. 123/18.07.2011, U/S 15/27A/29/61/85 Act, P.S Siwani-
Acquitted by the Ld. Court of ASJ, Bhiwani dated 13.10.2012.

8. FIR No. 442/16.11.2011, U/S 174-A IPC. P.S. Narnaund –
Acquitted by the Ld. Court of JMIC, Hansi dated 13.09.2012.

9. FIR No. 225/04.06.2011, U/S 15/16 NDPS Act, P.S. Sadar
Bhiwani- Acquitted by the Ld. Court of ASJ, Bhiwani dated
10.09.2013.

4. Detail of under trial pending cases :-

1. FIR No. 362/20.06.2011, U/S 15/37/29/25/26 NDPS Act, P.S.
City Hansi- Facing trial in the Ld. Court HSR.

Separate affidavit dated 13.2.2015 has been filed by Dr. Harish Kumar, Superintendent of Prison, District Prison, Jind. As per the affidavit filed on 13.2.2015, it has been further clarified that at the time of accepting the surety bond of both the petitioners Om Singh son of Bagh Chand and Sanjay Kumar son of Kishori Lal, the District Magistrate, Hisar explained the conditions mentioned in FORM-D that both the sureties jointly and severally do hereby bind themselves to forfeit to Government the sum of Rupees Two lac each in case the prisoner makes a default in observing any of the conditions specified in the Personal Bond FORM-C. Attested photocopy of personal bond is attached as Annexure R-4. This fact is clear from Annexure R-3 information sent by the District Magistrate to the Superintendent, Central Jail, Hisar dated 15.2.2010. Surety

bond was given by both the petitioners (Annexure R-1) and this is evident from the release order of the District Magistrate, Hisar (Annexures R-2 and R-3).

A perusal of the Annexure R-4 further shows that both the sureties given by the petitioner were accepted by the Government before the release of Narender alias Mota.

After going through the facts and circumstances and the details of the cases which were registered against Narender the order forfeiting the sureties passed by the Courts does not require any interference. It is not the case of the respondents that the petitioners had stood surety for Narender on an earlier occasion when he had misused the concession of parole. However, keeping in view that the accused was arrested on 24.10.2010 and is now in custody of the respondents and he had availed the parole for a period of 7 months in stead of 6 weeks, the order dated 23.8.2011 is being modified and the sureties presented by the petitioners of Rs. 2 lac each is being reduced to Rs. 50,000/- each. With the above modification, the revision petition stands disposed of.

February 16, 2015
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(**RITU BAHRI**)
JUDGE