

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl. A. No. S-4720-SB of 2014 (O/M)
Date of decision : 5.1.2016

Gurmeet Singh

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. L.S. Mann, Advocate, for the appellant.

Mr. Ashish Sanghi, Deputy A.G. Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Impugned in the present appeal is the order dated 17.9.2014, passed by the learned Special Judge, Fatehgarh Sahib, vide which the present appellant was directed to deposit surety amount of rupees one lac under Section 446 Cr.P.C.

It comes out that the present appellant stood surety for one Naveen Kumar, who was facing trial for offence punishable under Section 22 of NDPS Act, 1985, in FIR No. 42 dated 15.4.2013, registered at Police Station Khamano, in the sum of

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rupees one lac. He undertook to pay rupees one lac to the State, if the accused failed to appear before the Court.

I have heard the learned counsel for the appellant, learned State counsel and have also carefully gone through the file.

The learned counsel for the appellant has argued that in this case, the appellant/surety already moved an application on 2.4.2014 for releasing him from the surety bonds and that there are no allegations of his connivance with the accused. Therefore, the impugned order is liable to be set aside or at least modified, so as to reduce the penalty.

The perusal of the application shows that in the unusual terms, it is stated in the application that the surety wants to withdraw from the surety with effect from 1.7.2014 i.e. the next date of hearing. The Court issued notice to the surety and attesting witness for 7.6.2014 and bailable warrants for 24.7.2014, which gave clue to the accused, who absconded from the Court and could not be arrested so far. He is reported to have left the given address. Therefore, the proclamation was issued under Section 82 Cr.P.C. Now, the accused has been declared a proclaimed offender.

I am of the view that the fact that the present appellant did not withdraw the surety forthwith and wanted to withdraw the surety from 1.7.2014 i.e. the next date of hearing and gave three months to the accused shows that this surety deliberately cautioned

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the accused regarding withdrawal of the surety, so as to give him a clue that he may be put behind bars. It gives the indication of connivance of the present appellant with the accused, so as to allow the accused to abscond and avoid the penalty also. The accused, in this case, has become a proclaimed offender. There is no illegality or infirmity in the impugned order, imposing penalty.

The learned counsel for the appellant has relied upon the authority of the Hon'ble Supreme Court in Mohammed Kunju Versus State of Karnataka, 1999 (4) RCR (Criminal) 726, to press for reduction in the penalty.

The perusal of said authority shows that in the said case, no condition was imposed by the Court, asking the two foreign national accused to surrender their passports and that they had slipped out of the reach of the surety. In the present case, the situation is different. The present appellant himself moved the application on 2.4.2014, asking for withdrawal of surety from 1.7.2014, giving three months' time to the accused, which prima-facie indicates his connivance with the accused, so as to give him time to abscond.

Hence, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

5.1.2016