

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

CRA-S No.3094-SB of 2017 (O&M)
Date of decision : 27.10.2017

Ram Kumar

...Petitioner

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present : Mr. Aditya Dassaur, Advocate
for the petitioner.

Ms. Seena Mand, DAG, Punjab.

ANUPINDER SINGH GREWAL, J. (Oral)

This appeal is directed against the order dated 15.06.2017 passed by learned Addl. Sessions Judge, Ludhiana whereby the penalty of Rs.50,000/- has been imposed upon the appellant for his failure to produce the accused in Court.

The appellant had stood as surety for Lakhwinder Singh, who was an accused in FIR No.163 dated 26.05.2015 registered under Sections 22, 61, 85 of NDPS Act at Police Station City Khanna, Ludhiana.

The accused had absented himself in the trial and his arrest warrants were issued. As his presence could not be secured, proclamation under Section 82 Cr.PC was issued on 11.07.2017 directing him to appear within a period of 30 days of publication. Notice was also issued to the appellant, who stood surety for the accused. In the impugned order, it is recorded that notice to the surety was served through his daughter.

Learned counsel for the appellant contends that the appellant is 30 years of age and all his children are minor. Therefore, service purportedly effected upon him through his minor daughter is not valid under

Section 64 Cr.PC. He further contends that in terms of the order passed by this Court on 31.08.2017, the appellant has produced the accused before the trial Court on 27.09.2017 and he is now in judicial custody.

Section 64 Cr.PC stipulates that in case a person summoned cannot be found then the summons may be served by leaving one of the duplicates for him with some adult member of his family residing with him.

The appellant is stated to have been served through his minor daughter, which would not be proper service. The accused has now been produced before the trial Court and is in judicial custody.

Consequently, the appeal is allowed and the impugned order dated 15.06.2017 is set aside.

(ANUPINDER SINGH GREWAL)
JUDGE

27.10.2017

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1. Whether speaking/reasoned : YES
2. Whether reportable : YES/NO