

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

CRM No.M-26759 of 2017 (O&M)

Date of Decision: July 27, 2017

Narinder Singh

...Petitioner

VERSUS

Bakhtawar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vinay Puri, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against Bakhtawar Singh and other respondents for quashing the order dated 04.01.2017 passed by learned Judicial Magistrate Ist Class, Ludhiana, vide which which amount of ₹5 lakhs was forfeited to State instead of petitioner and order dated 27.03.2017 passed by learned Addl. Sessions Judge, Jalandhar, vide which the revision filed by the petitioner was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that an application was filed by Bakhtawar Singh before the Court below for permission to go abroad. Learned JMJC, Jalandhar, vide order dated 20.05.2016, allowed the application and accused Bakhtawar Singh was granted permission to visit

abroad (USA) for the period of two months only from the date of instant

order subject to his furnishing of bank guarantee to the tune of ₹5 lakhs in the name of Court, with one surety in the like amount. It was also ordered that Bakhtawar Singh shall get mark his presence after two months, failing which the amount of bank guarantee will be forfeited and would be given to the complainant. The accused did not surrender before the Court below and learned Magistrate while passing impugned order dated 04.01.2017, forfeited the bank guarantee to the State.

Learned counsel for the petitioner argued that as per earlier order, this amount should be given to the petitioner.

From the perusal of the record, I find that, in no way, the petitioner-complainant is entitled to amount of ₹5 lakhs. Bakhtawar Singh applied for permission to go abroad to the Court and the Court has granted permission and the bank guarantee was stated to be in the name of the Court. Though, in the order it was written that if he did not appear, then the forfeited amount will given be to the complainant, but in my view, this has been written due to inadvertence. There is no reason to give this amount of forfeiture of the bank guarantee to the complainant as it has been forfeited for violation of terms and conditions. Moreover, the matter of giving permission, is between the Court and the accused. The complainant-petitioner, in no way, is entitled for the forfeited amount. No right vests in the complainant, which makes him entitled to the amount of ₹5 lakhs, which is due to forfeiture of the bank guarantee. This amount, in no way, can be held as costs which is payable to the complainant-petitioner. As already discussed, no right vests in the complainant for the bank guarantee amount which was taken by the Court while giving permission to the accused to go

In view of the above discussion, I find that the impugned orders passed by the Courts below are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

July 27, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No