

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 22819 of 2016

Date of Decision: April 7, 2017

Mahender Singh and anr.

.....Petitioners

Vs.

State of Haryana and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Rakesh Sobti, Advocate for the petitioners.

Mr. Gaurav Jindal, Addl.A.G., Haryana.

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M.M.S. BEDI, J.

The petitioners have approached this Court and sought quashing of order dated August 16, 2015 passed by respondent No.3- District Collector, Faridabad, by virtue of which the surety bonds deposited by the petitioners have been forfeited as the convicted person had surrendered himself with a delay of 4 days. It is not disputed that convict Naveen while undergoing life imprisonment in jail was released on 3 weeks furlough on May 6, 2016 in compliance with the order of District Magistrate, Faridabad vide release order dated May 5, 2016. He was

directed to surrender on May 28, 2016 but he surrendered on June 2, 2016. The said convict claimed that he had gone to surrender at the Jail gate on May 28, 2016 but the Santri present on the gate of jail on May 28, 2016 asked the convict that May 28, 2016 was not his date of surrender but it was June 2, 2016. CCTV footage of the camera installed at the entry of the jail is not available but the petitioners claim that the same has not intentionally been produced. The said convict surrendered himself on June 2, 2016 but vide order annexure P-6, a direction was issued for recovery of sum of Rs.2 lacs each from the petitioners by putting on auction the immoveable property of the petitioners. The petitioners had submitted a representation annexure P-4 specifically bringing it to the notice of the District Collector that prisoner Naveen had gone to surrender in District Jail which could be verified from the CCTV Camera installed there and that the delay in surrender is only on account of Santri having not permitted him to enter jail on May 28, 2016. The plea that prisoner having been captured in the CCTV footage is not an after-thought but had been taken by the convict since the beginning and in response to show cause notice annexures P-1 and P-2 dated June 13, 2016, both the petitioners have submitted that the surrender of convict Naveen can be verified from CCTV camera installed there.

Without considering the CCTV footage, vide orders annexures P-5 and P-6, the order of forfeiture of sum of Rs.2 lacs each has been passed. The order imposing penalty on the petitioners without inquiring into the

facts pleaded by the petitioners is illegal and arbitrary. The claim of the petitioners is decided on the basis of preponderance of the probability.

In view of the said circumstances, the petition is allowed. Order dated August 16, 2016 requiring the petitioners to deposit a sum of Rs.2 lacs each is set aside. The petitioners can be imposed symbolic penalty of sum of Rs.5000/- each for having adopted a casual approach. They being sureties were required to confirm that convict surrender on May 28, 2016. It is ordered that a total sum of Rs.10000/- will be deposited in the Treasury under the relevant head by the petitioners within a period of one month after the receipt of certified copy of the order. Order regarding sale of property of the petitioners is hereby set aside being illegal and arbitrary.

April 7, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.