

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

**CRA-S-2896-SB of 2016 (O&M)
Date of Decision: 15.03.2018**

Kamal Singh

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sunil Saharan, Advocate for the appellant.

Mr. Vikas Malik, Deputy Advocate General, Haryana.

MAHABIR SINGH SINDHU, J. (Oral)

The present appeal has been filed against the impugned judgment dated 04.07.2016, passed by learned Additional Sessions Judge, Hisar, vide which the surety amount of Rs.1,00,000/- (One Lakh) was ordered to be recovered from the appellant with a default clause to undergo rigorous imprisonment of six months.

It is contended by learned Counsel for the appellant that accused Sumit @ Kali has already surrendered before learned trial Court and he is in custody and the appellant stood surety of the accused and there is no fault of the appellant.

In the present case, an FIR No.589 dated 01.07.2014, under Sections 307, 341, 34 of the Indian Penal Code and Sections 25/54/59 of the Arms Act was registered at Police Station City Hisar, District Hisar against Sumit @ Kali and others and he was granted the concession of bail by learned trial Court and the present appellant stood surety of accused Sumit @ Kali for an amount of Rs.1,00,000/- for releasing the said accused Sumit @ Kali on bail. It transpires that during trial, accused Sumit @ Kali absented from the proceedings on 19.04.2016 and ultimately, he was declared as a proclaimed offender. Consequently, learned trial Court initiated the proceedings under

Section 446 of the Cr.P.C. and opportunity was afforded to the present appellant to produce the accused Sumit @ Kali, but he failed to do so as the appellant himself was arrested in some other case bearing FIR No.331 dated 18.04.2016, under Sections 307, 120-B, 34, IPC. Resultantly, the Additional Sessions Judge, Hisar passed the impugned judgment and forfeited the bail bonds of the accused and ordered for recovery of Rs.1,00,000/- as surety amount from the present appellant.

It transpires that during the pendency of the present appeal, accused Sumit @ Kali has surrendered before learned trial Court and he is in custody and the said fact is duly acknowledged by learned State Counsel.

In terms of the statement on behalf of the appellant made before this Court on 29.01.2018, learned Counsel for the appellant has produced copy of the order dated 26.02.2018, passed by learned Additional Sessions Judge, Hisar to show that the appellant has deposited half of surety amount i.e. Rs.50,000/- as fine in FIR No.589 dated 01.07.2014.

Since the accused Sumit @ Kali has already surrendered before learned trial Court and the appellant has also deposited half of the surety amount i.e. Rs.50,000/- and he himself is in custody in some other case, therefore, this Court is of the opinion that end of the justice would be met in case the impugned judgment dated 04.07.2016 is modified to the extent that instead of forfeiting the surety amount of Rs.1,00,000/-, the same be modified to the extent of Rs.50,000/-, already deposited by the appellant.

Ordered accordingly.

Disposed off.

March 15, 2018

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**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>