

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-14499-2018

Date of decision: 23.05.2018

Nasib Singh

.. Petitioner

Vs.

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. R.K.Girdhwal, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 02.01.2018 (Annexure P1) passed by the Collector, Rohtak, vide which, penalty of Rs.1 lac has been imposed upon the petitioner.

Brief facts of the case are that the petitioner stood surety to one Parveen @ Chin son of Zile Singh, who was convicted in FIR No. 419 dated 31.10.2013 under Sections 392/397 of IPC and 25 of the Arms Act, registered at Police Station Sampla, District Rohtak and undergoing the sentence of imprisonment of 10 years in Thiar Jail, Delhi.

Counsel for the petitioner submits that the said convict i.e. Parveen was granted three weeks parole and he had to surrender on 15.08.2017 whereas he surrendered on 18.08.2017. Counsel for the petitioner further submits that on 15.08.2017, the date on which the petitioner was to surrender, was holiday and on that account, the said convict could not surrender and, thereafter, he immediately surrendered on 18.08.2017. Counsel for the petitioner further submits that there was no intention on the part of the convict not to surrender before the jail authorities and for *bona fide* reason, he could not surrender in time as he had obtained the parole for his own marriage and had to perform certain rituals.

Reply by way of affidavit of DSP, Rohtak on behalf of respondent State has been filed and it is stated that convict-Parveen was granted three weeks parole by this Court vide order dated 26.07.2017 and he was to surrender on 15.08.2017. It is further submitted that the petitioner stood as a surety of accused person and has furnished surety bonds to the tune of Rs. 1 lac and same was rightly forfeited.

Since the convict had to surrender on 15.08.2017 and he surrendered three days after i.e. on 18.08.2017, the surety bonds furnished by the petitioner was forfeited and the Collector Rohtak, vide impugned order dated 02.01.2018, has issued a recovery certificate of Rs.1 lac against the petitioner.

However, learned State counsel, on instructions from ASI Subhash, has not disputed that on 15.08.2017, was a national holiday on account of Independence Day.

Counsel for the petitioner further submits that the petitioner is a petty farmer and has no means to pay the amount of Rs.1 lac and, therefore, the said amount may be reduced.

After hearing counsel for the parties, this petition is allowed and the impugned order dated 02.01.2018 (Annexure P1) is set aside. The amount of Rs.1 lac, recoverable from the petitioner, as surety amount, is reduced to Rs.5,000/-, considering the fact that the date on which the convict was to surrender was a national holiday and also in view of the poor financial status of the petitioner, who is a small farmer. The petitioner is directed to deposit the amount on or before 30.07.2018 with the concerned authorities, failing which, this petition will be deemed to be dismissed without any further orders.

[ARVIND SINGH SANGWAN]
JUDGE

23.05.2018.

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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No