

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

CRM-M No.15158 of 2017 (O&M)

Date of Decision: 27.03.2018

Pawan Katariya and another

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. J.P.Jangu, Advocate for the petitioners.

Mr. Vikas Chopra, DAG, Haryana for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. for setting aside the impugned order dated 07.09.2016, passed by learned District Magistrate, Gurgaon, vide which the surety furnished by the petitioners amounting to Rs.2,00,000/- (Two Lakh) each was forfeited in favour of the State Government.

Reply by way of affidavit dated 20.03.2018 of Sh. Rajeev Kumar, HPS, ACP, City, Gurugram on behalf of respondent No.1 has been filed. The same is taken on record. Copy supplied to the opposite side.

It is contended by learned Counsel for the petitioners that the petitioners are very poor persons and even the accused Surjeet Singh, for whom the petitioners stood surety, has already been arrested.

The above factual position is not disputed by learned State Counsel by submitting that accused Surjeet Singh was arrested on 27.07.2016 i.e. prior to the passing of the impugned order.

Perusal of the paper-book reveals that both the petitioners in good faith stood surety on account of releasing the said accused Surjeet Singh on bail, but by misusing the concession, he absented from the trial and ultimately led to the passing of the impugned order under the provisions of Section 446 Cr.P.C. against the petitioners.

The contention raised on behalf of the petitioners seems to be justified in view of the fact that the accused Surjeet Singh has already joined the proceedings and thus the forfeiture of the surety in entirety i.e. Rs.2 Lakh (each) will be too harsh. Therefore, the impugned order dated 07.09.2016, passed by learned District Magistrate, Gurgaon is modified to the extent that the petitioners are liable to pay Rs.1 Lakh (each) instead of Rs.2 Lakh (each), in lieu of surety bonds furnished by them.

Disposed off accordingly.

March 27, 2018

Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes