

CRM-M-16599 of 2015

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

CRM-M-16599 of 2015
Date of Decision: 12.09.2018

Chandu Lal

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Rajesh Arora, Advocate, for the petitioner.
Mr. Arjun Singh Yadav, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., the surety has assailed order dated 31.03.2015 of Assistant Collector Grade-II, Tosam, whereby petitioner was directed to remain present before him on 07.04.2015 with respect to recovery of fine of ₹1,00,000/- equivalent to the surety amount.

In nutshell, petitioner stood surety for accused Sandeep for his bail in case FIR No.368 dated 01.11.2013 registered under Sections 399, 402 IPC and Section 25 of the Arms Act pertaining to Police Station Bilaspur, Gurgaon. However, during trial, aforesaid accused Sandeep absented. Therefore, his bail bonds and surety bonds were ordered to be cancelled and forfeited to the State. Pursuant thereto, petitioner was initially summoned through ordinary process and then through bailable and non-bailable warrants and was declared proclaimed offender under Sections 82 and 83 Cr.P.C.. Resultantly, FIR under Section 174 IPC was also lodged against accused Sandeep. However, when presence of the accused could not be secured by adopting all methods, his surety bond was cancelled and forfeited directing the Collector to recovery the surety amount vide order dated 30.01.2015 by the trial Court. Pursuant thereto, Assistant Collector Grade-II passed the order impugned herein.

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Learned counsel for the petitioner *inter alia* contends that accused Sandeep was arrested on 13.11.2014 in some other case pertaining to FIR No.12 dated 06.05.2014. Resultantly, on production warrants he was also produced in the trial of the aforesaid FIR No.368 dated 01.11.2013 in which the petitioner stood surety for him. The trial Magistrate or the Assistant Collector Grade-II considering this aspect of the matter, ought to have reduced the recovery of surety amount.

Heard.

In view of totality of the facts and circumstances, but without commenting on the merits of the case, impugned order and order passed by the trial Court dated 30.01.2015 are set aside. Petitioner is directed to appear before the trial Court within two weeks from today positively, failing which this order shall stand automatically cancelled and petition shall be outrightly dismissed for non-compliance of this order. The trial Court shall pass fresh order for recovery of surety amount from him after serving notice under Section 446 Cr.P.C. upon the petitioner.

Disposed of.

September 12, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No