

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

**CRM-M-18743-2018
Date of Decision: 16.08.2018**

Surmukh Singh

...Petitioner

Versus

State of Punjab and another

...Respondent

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Naresh Chander, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for quashing of the order dated 13.08.2016 (Annexure P-3), passed by the District Collector-cum-District Magistrate, Patiala, whereby the surety amount of ₹2,00,000/- was forfeited and the petitioner was directed to deposit the aforesaid amount, as well as order dated 06.01.2018 (Annexure P-6), passed by the Additional Sessions Judge, Patiala, dismissing the revision filed by the petitioner.

Brief facts of the case are that the petitioner stood surety to a convict namely Mandeep Singh who was released on parole for a period of four weeks as per order of Director General of Police, Punjab, Chandigarh, vide letter No. 4551/G.I.P. Dated 12.03.2014. The petitioner stood surety to the tune of ₹2,00,000/- and the aforesaid convict was released from the Central Jail, Patiala.

Thereafter, the aforesaid convict failed to surrender before the

jail authorities within the prescribed time i.e. on 03.07.2014 and was re-arrested by the police on 13.11.2014 and is now undergoing the imprisonment. The District Collector-cum-District Magistrate, Patiala, thereafter, issued a show cause notice dated 05.11.2014 (Annexure P-1) directing the petitioner to deposit the aforesaid amount of ₹2,00,000/- for violation of Sections 3 and 4 of the Punjab Good Conduct Act, 1962.

The petitioner filed a reply to the aforesaid show cause notice and submitted that the convict has already been arrested by the police on 13.11.2014, therefore, show cause notice may be withdrawn.

The District Collector-cum-District Magistrate, Patiala, without affording any opportunity of hearing to the petitioner, passed the impugned order dated 13.08.2016 (Annexure P-3), vide which, surety amount of ₹2,00,000/- was forfeited in favour of the Government.

The petitioner, thereafter, filed a revision petition before the Court of Sessions along with an application for condonation of delay, Annexures P-4 and P-5, both dated 15.05.2017. The Additional Sessions Judge, vide impugned order dated 06.01.2018 (Annexure P-6), dismissed the revision petition only on the ground of limitation and no adjudication was made on merits of the case.

The present petition has been filed challenging the aforesaid orders.

Learned counsel for the petitioner has relied upon the judgments passed by this Court in ***Mohinder Singh vs. State of Punjab, 2008 (22) R.C.R. (Criminal) 704, Angrej Singh vs. State of Punjab, 2010 (4) R.C.R. (Criminal) 580 and Gopal Kaur vs. State of Punjab, 2011 (6) R.C.R. (Criminal) 1394***, wherein this Court, while imposing the penalty

under Section 446 Cr.P.C., has held that the amount of penalty may be reduced to 1/4th of the amount of surety bonds.

On 03.05.2018, the petitioner has submitted before this Court that he is ready to pay an amount of ₹50,000/- by depositing the same with Tehsildar/Executive Officer, Patiala.

Learned counsel for the petitioner submitted that the petitioner, in compliance with the order dated 03.05.2018, has already deposited the amount of ₹50,000/- with the Tehsildar/Executive Officer, Patiala and has placed on record receipt dated 11.06.2018 in this regard.

Learned State counsel, on instructions from ASI Nachchar Singh, does not dispute the factual position.

I have heard learned counsel for the parties.

A perusal of the impugned order dated 13.08.2016 (Annexure P-3), passed by the District Collector-cum-District Magistrate, Patiala, shows that prior to passing of this order, no opportunity of hearing was granted to the petitioner and it is not mentioned in the order if any notice was issued to the petitioner to appear before the District Collector-cum-District Magistrate, Patiala before passing of the impugned order.

A perusal of the order dated 06.01.2018 (Annexure P-6), passed by the Additional Sessions Judge, further shows that the same has been passed only on the ground that the petitioner has failed to explain the delay in filing the revision petition and no adjudication has been made on merits of the case. Therefore, the revisional Court has not applied its judicial mind in coming to the conclusion that the order passed by the District Collector-cum-District Magistrate, Patiala was not passed after affording opportunity of hearing to the petitioner.

Therefore, in view of the ratio of the judgments, relied upon by learned counsel for the petitioner, and also considering the fact that the petitioner has stood surety for a convict who, after being released on parole, overstayed the parole period and was later on re-arrested by the police, I deem it appropriate to reduce the surety amount from ₹2,00,000/- (Rupees two lakh) to ₹50,000/- (Rupees fifty thousand), that has already been deposited by the petitioner with Tehsildar/Executive Officer, Patiala. Ordered accordingly.

Petition stands disposed of.

August 16, 2018
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No