

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2647-2018

Date of decision: 23.01.2018

Anil @ Sunil @ Swami

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 18.12.2017 (Annexure P-7) passed by the Additional Sessions Judge, Rewari in FIR No.24 dated 02.05.2012 under Sections 294/323/34 IPC, Police Station GRPS Rewari, vide which the application filed by the petitioner for allowing the petitioner to furnish the probation bonds and to deposit the costs on account of releasing the petitioner on probation was declined on the ground that he has filed this application after a period of more than one year.

Notice of motion.

On asking of the Court, Mr. Himmat Singh, DAG, Haryana accepts notice on behalf of the respondent-State.

Brief facts of the case are that the petitioner along with another co-accused Paramveer were convicted by the trial Court under Sections 294/323 IPC read with Section 34 IPC and were ordered to undergo sentence for one year R.I. with a fine of Rs.1500/- each, vide judgment of conviction and order of sentence dated 21.05.2015. The petitioner along with his co-accused

Paramveer filed an appeal and the appellate Court, while upholding their conviction, has released them on probation on their furnishing probation bonds and deposit of Rs.20000/- to be paid in equal share by petitioner Anil and co-accused Paramveer. It was further directed that probation bonds shall be furnished within a period of one month, failing which the imprisonment awarded by the trial Court shall remain operative.

Counsel for the petitioner submits that the petitioner as well as co-accused Paramveer could not deposit the probation bonds within the stipulated time and the petitioner filed an application for extension of time, which has been declined by the Additional Sessions Judge, Rewari vide impugned order dated 18.12.2017. Counsel for the petitioner further submits that co-accused Paramveer has filed CRM-M-20336-2017 praying for extension of time and the same was allowed vide order dated 23.08.2017. The operative part of the order dated 23.08.2017 is reproduced as under: -

“Learned counsel for the petitioner has argued that though the petitioner was required to deposit the compensation amount and to submit the probation bonds upto 16.10.2016, but when the petitioner was ready to go to the Court for compliance of the order dated 17.09.2016 passed by learned Additional Sessions Judge, Rewari, he received an unfortunate news of the death of his real brother-in-law on 16.10.2016 itself. As such, he could not furnish the probation bonds and could not deposit the compensation amount. As a consequence thereof, his arrest warrants were issued.

*Learned counsel for the petitioner has placed reliance upon **Randhir Versus Munish Ram 2001 Cri. L.R. 92 (Rajasthan)**, whereby for non-furnishing of probation bonds and for non-deposit of compensation amount, the Court had extended time*

*enabling the petitioner to deposit the compensation and to furnish the bond. Reliance has also been placed upon **Chaman Parkash and others Versus State of Haryana 2015(3) RCR (Criminal) 293.***

The above fact has not seriously been contested by learned State counsel.

Be that as it may, and having recourse to the aforesaid judgments referred by learned counsel for the petitioner coupled with the fact that the brother-in-law of the petitioner had expired on 16.10.2016, this Court finds that there was a reasonable excuse with the petitioner in not depositing the compensation amount and furnishing the probation bonds. However, taking into consideration the fact that the petitioner has now shown his inclination to comply with the order dated 17.09.2016 passed by learned Additional Sessions Judge, Rewari within a period of 15 days, this Court accepts his prayer being justified.

Accordingly, the impugned order dated 10.04.2017 passed by learned Additional Sessions Judge, Rewari is set aside and the petitioner is directed to furnish probation bonds and to deposit the compensation amount in terms of order dated 17.09.2016 passed by learned Additional Sessions Judge, Rewari within a period of 15 days from the date of receipt of certified copy of this order.

The present petition is disposed of in these terms.

However, it is made clear that in case the petitioner fails to do the needful within the aforesaid period of 15 days, the present petition shall be deemed to have been dismissed in its totality.”

Counsel for the petitioner has submitted that the petitioner was not aware about passing of the order by the appellate Court as the counsel representing him before the appellate Court has not communicated about the same. It is further submitted that there was no intention on the part of the petitioner not to furnish probation bonds and deposit of Rs.10,000/- within the

stipulated time. Counsel for the petitioner has further submitted that the petitioner is neither a previous convict nor he is facing such or similar trial and therefore, he is entitled to be granted the same benefit as given to his co-accused Paramveer vide order dated 23.08.2017 passed by this Court.

After hearing learned counsel for the parties, I find that the petitioner be granted one more opportunity to furnish the probation bonds and deposit the amount of Rs.10,000/-, which shall be paid to the complainant as compensation. Since the petitioner has approached the Court after a period of more than one year from the date of passing of the judgment dated 17.09.2016, the petitioner is directed to pay an additional amount of Rs.5,000/- as costs, which shall also be paid to the complainant as compensation.

Accordingly, this petition is allowed and the impugned order dated 18.12.2017 (Annexure P-7) passed by the Additional Sessions Judge, Rewari is set aside. The petitioner is directed to appear before the Additional Sessions Judge, Rewari within a period of 20 days from the date of receipt of certified copy of this order.

However, it is made clear that in case the petitioner fails to do the needful within the aforesaid period of 20 days, the present petition shall be deemed to be dismissed in its totality.

[ARVIND SINGH SANGWAN]
JUDGE

23.01.2018
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No