

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

CRM-M-29877-2018 (O&M)

Date of Decision:- 19.7.2018

Baljit Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jarnail S. Saneta, Advocate, for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

By way of filing this petition the petitioner challenges show cause notice datd 21.1.2018 (Annexure A-1) issued to the petitioner in terms of Section 446 Cr.P.C. and also the subsequent proceedings taken thereupon.

Notice of motion.

Upon request made by this Court, Mr. Sandeep Vashisht, DAG, Haryana accepts notice on behalf of the respondent.

I have heard the learned counsel for the petitioner and also the learned State counsel.

A few facts necessary for disposal of this petition are that petitioner Baljit Singh had stood surety for one Gaurav Kumar in FIR No.386 dated 20.6.2014 under Sections 148, 149, 323, 325, 307, 120-B IPC and under Sections 25, 54 and 59 of the Arms Act, Police Station City

Thanesar, District Kurukshetra. On account of absence of Gaurav Kumar on one of the dates, the bail bonds were cancelled and a notice was issued to the surety on 21.1.2018 (Annexure A-1) by the learned Additional District and Sessions Judge, Kurukshetra. The relevant extract of the said notice read as follows:

“You are hereby required to pay the said penalty or show cause, on or before 25.01.2018 at 9.30 A.M., why payment of the said sum should not be enforced against you.

Sd/- Reader G-1

Seal of the Court

Additional District & Sessions Judge,
Kurukshetra, 207/21-1-2018”

The matter had been adjourned to 25.1.2018 when accused Gaurav Kumar was produced by the jail authorities by way of video conferencing. However, since surety Baljit Singh did not appear on 25.1.2018, despite having been served, bailable warrants were ordered to be issued for securing his presence on the next date and the matter was adjourned to 1.2.2018. Vide order datd 1.2.2018 (Annexure A-3) the petitioner was directed to deposit the penalty amount. The relevant extract from order dated 1.2.2018 read as follows:

“ Surety Baljit of accused Gaurav has appeared in pursuance of bailable warrant. Notice under section 446 Cr.P.C. served upon him. He has sought some time. He be directed to appear before the court on the date fixed for depositing the penalty amount.”

A perusal of the aforesaid orders show that the learned trial Court had ordered for recovery of the penalty amount without specifying the

same and without giving appropriate opportunity to the petitioner to file reply. Consequently, order dated 1.2.2018 as far as the same pertains to issuance of a direction to the petitioner to deposit penalty amount and also the subsequent orders in this regard are hereby set aside.

In case the petitioner approaches the aforesaid Court and files reply to the show cause notice, within two weeks from today, the trial Court shall take the same into consideration and pass speaking order in the matter so as to dispose of the proceedings under Section 446 Cr.P.C. taking into consideration all the relevant facts including the fact that the accused had been produced shortly after cancellation of bail.

July 19, 2018
mohan

(Gurvinder Singh Gill)
Judge

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