

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-45811-2016

Date of decision: 26.10.2018

Jai Chand and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. JS Sandhu, Advocate for the petitioner.

Mr. Vikas Chopra, DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing order dated 15.09.2016 (Annexure P-1) passed by respondent No. 2-Deputy Commissioner, Sonapat, directing the petitioners, namely; Jai Chand and Kanwal Singh, to deposit ₹ 2 lakhs each towards surety amount with the Government Treasury by 15.10.2016, failing which to recover the said amount from them as land reveune.

In nutshell, Surinder @ Kala son of petitioner No. 1-Jai Chand, was released on six weeks parole on 07.06.2016, on furnishing of bail and surety bonds by the petitioners in the sum of ₹ 2 lakhs each. After the expiry of six weeks' period, Surinder @ Kala was to surrnder on jail gate on 20.07.2016, but he could not do so, on account of his arrest in

another case FIR No. 0271 dated 17.07.2016 under Section 25 of the Arms Act, Police Station Kharkhoda in which he was taken into custody on 17.07.2016 i.e. three days earlier to the date of his surrender i.e. 20.07.2016.

Learned counsel *inter alia* contends that non-surrender of accused-Surinder @ Kala on the given date and time as per terms and conditions of release order was not intentional or deliberate, rather was on account of his arrest in the aforesaid FIR No. 0271 dated 17.07.2016. Therefore, the petitioners have wrongly been directed to deposit ₹ 2 lakhs each towards their surety bonds.

On the other hand, learned State counsel vehemently opposing the submissions of learned counsel for the petitioners, pleaded the legality and validity of the impugned order.

Having given anxious consideration to the rival submissions of both the sides, this petition merits partly acceptance, for the simple reason that non-surrender of accused-Surinder @ Kala on 20.07.2016, as per terms and conditions of the release order was beyond the control of the petitioners. Accused Surinder @ Kala was arrested on 17.07.2016 i.e. three days prior to his surrender, in case FIR No. 0271 dated 17.07.2016 under Section 25 of the Arms Act, Police Station Kharkhoda. Therefore, the petitioners cannot be held responsible for non-surrender of accused-Surinder @ Kala, in utter violation of the undertaking given by them as sureties. However, accused-Surinder @ Kala, violated the terms and conditions of release order as he was booked in another criminal case under the Arms Act, vide FIR No. 0271 dated 17.07.2016. Therefore,

petitioners are only liable for breach of their undertaking, whereby they have undertaken that accused-Surinder @ Kala, would not violate the terms and conditions of his release order.

Consequently, the impugned order dated 15.09.2016 (Annexure P-1) is modified to the extent that the petitioners shall deposit ₹ 50,000/- each instead of ₹ 2 lakhs each, within a period of two weeks from today, failing which this order shall automatically stand cancelled.

Accordingly, the instant petition is partly allowed.

October 26, 2018

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No