

CRA-S-563-SB of 2017 (O&M)

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

CRA-S-563-SB of 2017 (O&M)
Date of Decision: 23.01.2019

Vikram

....Appellant

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. G.S. Duhan, Advocate, for the appellant.
Mr. P.K. Garg, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, appellant has laid challenge to order dated 07.12.2016 of the learned Additional Sessions Judge, Kaithal, whereby penalty of ₹2,00,000/- was imposed upon him as surety of accused Rajesh, who, on bail, during trial absented.

Perusal of file shows that accused Rajesh, for whom appellant stood surety, had absented on 25.10.2016. He was declared proclaimed offender on 05.05.2018 and was re-arrested on 30.08.2018.

Learned counsel contends that despite repeated information by the appellant to the police as to the whereabouts of accused Rajesh, it did not make any effort to arrest him. Rather, the police remained silent for the reasons best known to it. Therefore, delay in arrest of the accused is on account of negligence of the police.

On the other hand, learned State counsel has vehemently opposed the appeal.

Having given anxious consideration to the rival submissions, this

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Court is of the considered view that accused Rajesh was re-arrested in this case after obtaining production warrants from the Court as he was in custody in some other case in District Jail, Jind. From the above factual position it is evident that accused Rajesh absented during trial may be on account of his arrest in some other case. Therefore, absence of accused Rajesh can not be termed as wilful or deliberate fault of the petitioner as his surety.

Considering overall facts and circumstances, penalty amount of ₹2,00,000/- deposited by the petitioner vide receipt No.86 of book No.10711 dated 03.02.2018 is reduced to 1/3rd i.e. lump sum ₹67,000/-. Consequently, impugned order dated 07.12.2016 is modified to the above stated effect. Trial Court is directed to refund the excess amount beyond ₹67,000/- to the petitioner against proper receipt and identification in accordance with law.

Disposed of.

January 23, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No