

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-5404-SB-2015 (O&M)
Date of Decision:-10.05.2019.

Amit

.....Appellant

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Anurag Arora, Advocate for the appellant.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

RAJ SHEKHAR ATTRI, J.

The instant appeal has been filed under the provisions of Section 449 Cr.P.C. for setting aside the order passed by learned Additional Sessions Judge Karnal dated 30.04.2015 whereby bank guarantee of Rs.5,00,000/- furnished by the appellant has been forfeited to the State; notice to surety of Rs.5,00,000/- has been issued and *sapurdginama* in the sum of Rs.50,000/- furnished for releasing the passport on *sapurdari* has been cancelled and the same has been ordered to be forfeited to the State.

It has been submitted that passport of the appellant was taken into possession during investigation.

The Investigating Officer punched the passport, however, when it was returned, it was in the punched condition.

After obtaining permission for going abroad, petitioner visited

return on or before 02.09.2014.

He overstayed in Australia and returned on 23.09.2014 and appeared before the Court on 25.09.2014. There was delay of 23 days. Therefore, the surety submitted by him of Rs.5,00,000/- was forfeited.

To the mind of this Court, the circumstances were beyond the control of the appellant. In fact when the passport was punched by the Investigating Officer, same was renewed by the Australian High Commission. A certificate has been issued dated 30.07.2014 (Annexure P-4), which transpires that the passport was damaged and fresh passport has been issued.

In this view of the matter, the order dated 30.04.2015 passed by the learned Additional Sessions Judge Karnal forfeiting the surety is not sustainable in the eyes of law. As such, same is set aside. The surety amount be refunded to the appellant against proper identification and receipt.

Appeal is allowed.

(RAJ SHEKHAR ATTRI)
JUDGE

May 10, 2019.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.