

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

**CRM-M No. 30954 of 2019
Date of Decision:-22.07.2019**

Mahender Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. S.S. Mor, Advocate
for the petitioner.

MANOJ BAJAJ J.(Oral)

The petition has been filed under Section 482 Cr.P.C. read with Section 444 Cr.P.C. challenging the order dated 12.6.2019 passed by the Chief Judicial Magistrate, Panipat, whereby the application filed by Mahender Singh (surety of convict Krishan) for withdrawal of the surety has been declined as not maintainable.

Learned counsel for the petitioner contends that accused Krishan was convicted through judgment dated 12.3.2010 and sentenced vide order dated 15.3.2010. The prosecution arose from case FIR No.187 dated 6.5.2008, under Sections 302 and 201 read with Section 34 IPC,

registered at Police Station Model Town, Panipat. Learned counsel contends that the application for suspension of sentence on behalf of convict was allowed vide order dated 02.9.2013 in CRA-D-334-DB-2010 and pursuant to that the convict furnished bail bonds and surety bonds. He submits that the applicant Mahender Singh stood surety but as the applicant has no trust on the accused/convict, he moved an application for withdrawal of the surety bonds and prayed for discharge of surety.

Notice of this petition be given to the State of Haryana.

On asking of the Court, Mr. Sukhdeep Parmar, DAG, Haryana accepts notice on behalf of respondent-State. Learned counsel for the petitioner has supplied the copy of petition to learned State counsel.

Learned counsel for the petitioner has further contended that the Court fell into error in observing that application is not maintainable, particularly when the provisions of Section 444 Cr.P.C. are clear that the Magistrate is empowered to discharge the surety upon the application so made by the surety. However, the trial Court has wrongly dismissed the application on the ground that the same is not maintainable.

After hearing learned counsel for the parties this Court finds that the bail bonds and surety bonds were furnished by the convict pursuant to the order of suspension of sentence passed by this Court and the satisfaction was recorded by the Magistrate in respect of the bonds. Therefore, it is the same Court, which has to allow the discharge of the sureties.

Resultantly, the impugned order dated 12.6.2019 (Annexure P-

2) is set aside and it is directed that the application of the petitioner Mahender Singh be decided on merits.

Disposed off.

July 22, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No