

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

**CRM-M-41582-2019
Date of decision: 26.09.2019**

Naib Singh and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for setting aside the order dated 26.07.2019, passed by the District Magistrate, Kaithal, vide which, the penalty of Rs. 1 Lakh each has been imposed upon the petitioners on account of over staying of convict Joga Singh, son of petitioner No. 1, who was granted parole to attend the marriage of his sister from 08.02.2019 to 15.02.2019.

Learned counsel for the petitioner submits that the son of petitioner No. 1, namely Joga Singh, is convicted in FIR No. 34 dated 03.05.2015, registered under Sections 302, 148, 149 and 120-B of the IPC at Police Station Pundri, District Kaithal and is undergoing life sentence.

It is further submitted that for attending the marriage of his sister, which was scheduled for 11.02.2019, convict Joga Singh applied for grant of parole which was declined. Thereafter, he filed CWP No. 1219 of 2019 which was disposed of on 15.02.2019 by granting parole to Joga Singh from 08.02.2019 to 15.02.2019, subject to furnishing surety bonds to

the satisfaction of the District Magistrate, Kaithal. Both the petitioners furnished surety bonds to the tune of Rs. 1 Lakh each and said convict Joga Singh was released on parole, however, he did not report back to the jail authorities on completion of parole period and later on surrendered on 04.05.2019 after over staying for a period of about two and a half month. On this, District Magistrate, Kaithal issued notice to the petitioners as to why the surety amount furnished by them be not forfeited to Govt. Treasury. The petitioners filed reply to the said notice and pleaded that on account of ill mental health of Joga Singh, he went missing and ultimately he was traced by the petitioners in a very bad health condition and he was taken to the jail authorities where he surrendered on 04.05.2019.

It was further stated by the petitioners in their reply that father of petitioner No.1 had also died in the meantime on 03.04.2019 and the petitioners could not trace Joga Singh in time due to this fact. The petitioners further stated that they are the small farmers and, therefore, imposition of penalty upon them may be exempted.

Thereafter, the District Magistrate, Kaithal, vide impugned order dated 26.07.2019, ordered recovery of surety amount of Rs. 1 Lakh each from the petitioners and directed them to deposit the same in the Govt. Treasury.

Learned counsel for the petitioners further submits that a perusal of the impugned order would show that both the petitioners have given surety bonds showing that they have 02 Kanal 11 Marlas and 04 Kanal 08 Sarsai of land, respectively and they have annual income of Rs. 60,000/- each from all sources.

Learned counsel for the petitioners relies upon the judgment of

this Court rendered in **2011 (6) R.C.R. (Criminal) 1394, Gopal Kaur vs. State of Punjab**, wherein this Court has reduced the amount of penalty imposed by the authority.

Notice of motion.

On the asking of Court, Mr. Himmat Singh, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and has not disputed the proposition of law in **Gopal Kaur's case (supra)**.

After hearing learned counsel for the parties, considering the fact that both the petitioners are small farmers and as per own case of the State, they have annual income of Rs. 60,000/- each only from all sources, this petition is disposed of and the penalty imposed upon the petitioners by the District Magistrate, Kaithal is reduced to Rs. 10,000/- each.

The petitioners are directed to deposit the reduced penalty within a period of three months from today, failing which this petition will be deemed to have been dismissed without any further order.

26.09.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No