

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

CRA-S-161 of 2019

DATE OF DECISION :- February 26, 2020

Amrik Singh

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Prinkle Singla, Advocate
for Mr. C.L. Verma, Advocate for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Mr. Amrik Singh had stood surety for appearance of accused Rohit Kumar in the case registered vide F.I.R. No.168 dated 24.11.2011 for offences under Sections 457, 380, 427, 34 IPC registered with Police Station Sadar Hoshiarpur in the sum of Rs.50,000/- to the effect that such accused would appear in the Court on each and every date of hearing and in case of default the said surety would pay a sum of Rs.50,000/- to the State.

Accused Rohit had absented from the Court. Warrants of arrest were issued against him which could not be executed. Then proclamation under Section 82 Cr.P.C. was issued which was duly effected and thereafter he was declared a proclaimed offender vide order dated 7.12.2018. Notice under Section 446 Cr.P.C. is said to have been issued to surety Amrik Singh. Since he did not appear, a penalty of Rs.50,000/- was imposed upon

him vide impugned order of the even date. Such penalty let him aggrieved and he has approached this Court by way of filing the present appeal, notice of which was given to the State.

I have heard learned counsel for the appellant surety and learned State counsel besides going through the record.

It is contended on behalf of the appellant surety that he was not properly served in proceedings under Section 446 Cr.P.C. and further accused was in custody in some other case. He had informed the trial Court in that regard and thereafter the accused was produced in custody in the trial Court. He had made sincere efforts to locate the accused and had discharged his responsibility like a good citizen, therefore, imposition of penalty of Rs.50,000/- is uncalled for. Whereas State counsel is defending the impugned order.

After hearing the rival contentions, I find that it would be proper and appropriate if the impugned order is set aside and the trial Court is directed to hear the appellant surety in the matter and allow him to adduce evidence, if any, in support of his contention and then pass a fresh order giving reasons for arriving at the conclusion.

The appeal is disposed of accordingly. The appellant surety is directed to appear before ACJM Hoshiarpur/trial Court on 25.3.2020.

(H.S. MADAAN)
JUDGE

February 26, 2020
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No