

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

**CRR No. 87 of 2021 (O&M)
Date of decision: 04.02.2021**

Urmila Devi and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- None for the parties.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

The lawyers are abstaining from work today.

Prayer in this revision petition is for setting aside the order dated 17.10.2019 passed by the District Magistrate, Panipat, vide which, a penalty of Rs. 2 Lakh each was imposed on the petitioners, who stood surety to their son Pawan Kumar, who is undergoing life sentence, for releasing him on parole for a period of three weeks as the life convict failed to surrender before the jail authorities on the stipulated date i.e. 24.07.2019.

Brief facts of the case are that aforesaid Pawan was convicted for life imprisonment by the Additional Sessions Judge, Panipat, vide judgment and order of sentence dated 10.11.2008. On an application, moved by Pawan for releasing him on parole, the District Magistrate granted him three weeks' parole on 11.06.2019. The petitioners, Urmila Devi and Balbir Singh, filed surety bonds of Rs. 2 Lakh each to ensure that Pawan will surrender back on 24.07.2019, however, he failed to surrender on the said date. Accordingly, the District Magistrate, Panipat, after issuance a notice of show cause to

petitioners, imposed the penalty of Rs. 2 Lakh each and further directed that the said amount be recovered as arrears of land revenue.

The petitioners preferred an appeal before the Court of Sessions and pleaded that they are not in a position to pay such a heavy penalty as they are having meager source of income. It was further submitted that proper opportunity was not given to the petitioners to defend their case.

The Additional Sessions Judge, vide order dated 15.12.2020, reduced the penalty amount to Rs. 50,000/- each with a direction that the same be deposited within one month of passing the order, failing which the order shall automatically be recalled and appeal will be deemed to be dismissed, meaning thereby, the order of District Magistrate, Panipat, imposing the penalty of Rs. 2 Lakh, will revive.

A perusal of aforesaid order shows that the appellate Court has taken notice of the fact that convict Pawan was in fact arrested in some other case and was lodged in jail and, therefore, he could not surrender before the jail authorities on 24.07.2019. It is also noticed that petitioners are simpleton persons and they do not have adequate means to pay the said penal amount. The appellate Court, however, reduced the penal amount exercising powers under Section 446(3) Cr.P.C., which provides that the Court may, on its discretion, remit any portion of the penalty mentioned and enforce payment in part only. The appellate Court, while relying upon certain judgments of the High Courts, reduced the penal amount to Rs. 50,000/- each.

Since this is a second revision petition and considering the limited scope of the same, issuance of notice to State of Haryana is dispensed with as its version is already noticed in the orders passed by the Additional Sessions Judge, Panipat as well as District Magistrate, Panipat.

The main contentions of the petitioners, raised in the grounds of revision, are that they stood surety to said convict Pawan on humanitarian grounds, who had already undergone 13 years of actual sentence and was granted a parole of three weeks, however, since he was involved in some other case, he could not surrender in time.

It is further stated that petitioner No. 1 is an old lady and has not any independent source of income and petitioner No. 2, who is a retired military personnel, owns only 1.25 acres of land. The petitioners have children of marriageable age and convict Pawan, is in fact their son and, therefore, they had stood surety for him. It is further submitted that both the petitioners are old aged persons as petitioner No. 1 is aged about 58 years and petitioner No. 2 is aged about 60 years and they are suffering from age related health problems.

It is further pleaded that since Pawan was arrested in some other case, the petitioners were not aware about his whereabouts to ask him to surrender before the jail authorities in time, therefore, no fault can be found on the part of the petitioners.

After going through the record, it is clear that life convict Pawan was released on parole as per order dated 11.06.2019 of the Divisional Commissioner, Hisar and was directed to surrender on 24.07.2019, however, he failed to surrender on the said date and later on, he was found to be arrested in some other case and was in jail. The petitioners stood surety for him by furnishing surety bonds of Rs. 2 Lakh each.

In view of the mitigating circumstances explained in this petition and considering the facts that the petitioners are old aged persons; their financial condition is not good; life convict Pawan already stands arrested in

other case and has surrendered before the jail authorities; the petitioners are petty farmers, having meager land holdings and the Covid-19 situation in country and also in view of the judgment of this Court rendered in ***Gopal Kaur vs. State of Punjab, 2011 (6) RCR (Criminal) 1394***, the penalty of Rs. 2 Lakh each, as imposed by the District Magistrate, Panipat as well as the conditional order passed by the Additional Sessions Judge, Panipat, directing the petitioners to pay Rs. 50,000/- each, are set aside.

The amount of penalty is reduced to Rs.5,000/- each. The petitioners are granted three months' time from today to deposit the reduced penalty, failing which, this petition shall be deemed to be dismissed.

The petition stands disposed of.

04.02.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No