

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

**CRA-S-153-SB-2006(O&M)
Date of decision:-28.7.2022**

Multan Singh

....Appellant

Versus

State of Haryana

....Respondent

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

Present : Mr.Mohit Aneja, Advocate
Amicus Curiae for the appellant.

Mr.Brijesh Sharma, AAG, Haryana.

H.S. MADAAN, J.

1. As per the report by the Registry, appellant Multan Singh has been served. Notice has also been sent to Sh.G.S. Duhan, Advocate, who had been representing the appellant earlier. However, there is no representation on behalf of the appellant.

2. Sh.Mohit Aneja, Advocate, who is present in the Court is appointed as Amicus Curiae to assist the Court.

3. This appeal has been filed against the order dated 1.12.2005 passed by learned Sessions Judge, Kaithal imposing penalty of Rs.30,000/- upon the surety Multan Singh (appellant) of accused Pawan

Kumar.

4. Briefly stated, facts of the case are that appellant Multan Singh had stood surety for accused Pawan Kumar in case FIR No.289 dated 25.12.2003 for offences under Sections 398, 401 IPC and 25 of the Arms Act, registered with Police Station Pundri, the accused jumped bail, notice was issued to his surety Multan Singh, who put in appearance. He could not cause appearance of accused Pawan Kumar accused in the Court. Therefore, vide order dated 1.12.2005, a penalty of Rs.30,000/- was imposed upon him and warrants for recovering the amount were ordered to be sent through Collector, Kaithal authorizing him to realize the amount as arrears of land revenue from the movable and immovable property of the surety.

5. Feeling aggrieved by the said order, the appellant Multan Singh has filed the present appeal, which came up for hearing on 27.1.2006 when it was admitted and payment of 50% of the penalty imposed on the appellant was ordered to remain stayed. Now this appeal has come up for final hearing.

6. I have heard Sh.Mohit Aneja, Advocate (Amicus Curiae) and learned State counsel besides going through the records.

7. It is not disputed that appellant had stood surety for accused Pawan Kumar for his appearance in the Court on each and every date of hearing and in case of default to pay the surety amount to the State. Such accused had jumped bail with the result his personal bonds and surety bonds were cancelled and forfeited to the State and warrants of arrest was issued against him. Notice under Section 446 Cr.P.C. was served upon appellant – surety Multan Singh and penalty of Rs.30,000/-

had been imposed upon him vide the impugned order, which left him aggrieved and he has filed the present appeal.

8. After hearing the learned Amicus Curiae and learned State counsel and going through the record, I do not find any illegality or infirmity in the impugned order. Appellant Multan Singh had stood surety for accused Pawan Kumar and it was his duty to ensure that such accused appeared in the Court on each and every date of hearing. Accused Pawan Kumar did not do so. His personal bonds and surety bonds were rightly cancelled and forfeited to the State, the trial had got delayed on account of the accused absenting himself from the proceedings. On being issued notice, Multan Singh had appeared in the Court but he could neither cause appearance of accused Pawan Kumar in the Court nor render any reasonable or plausible explanation for non appearance of accused Pawan Kumar in the Court. He could not bring any mitigating circumstance to the notice of the Court, considering which some lenient view in the matter could be taken against him.

9. If the appellant had stood surety for an accused, he would have been well aware of the consequences to follow if the accused did not appear in the Court regularly. Therefore, no leniency in the matter is called for. Here, I do not see any reason to accept the appeal and to interfere with the order passed by the trial Court. Therefore the appeal stands dismissed.

10. A copy of the order be sent to learned Sessions Judge, Kaithal to enable him to issue recovery warrants against the appellant through Collector Kaithal to recover the amount of penalty in whole or balance as the case may be as arrears of land revenue from the movable

and immoveable property of the appellant.

11. High Court Legal Services Committee, Chandigarh is requested to pay requisite fee to Sh.Mohit Aneja, Advocate appointed as Amicus Curiae.

28.7.2022

Brij

(H.S.MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No