

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-15363-2017 (O&M)
Date of decision: 06.12.2022

PIRTHI AND ANOTHER

....Petitioners

Versus

STATE OF HARYANA AND ANR

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Raj Kapoor Malik, Advocate
for the petitioners.

Ms. Aditi Girdhar, AAG Haryana.

AMAN CHAUDHARY. J.

Present petition has been filed for quashing the order dated 03.03.2017 passed by the respondent No.2 vide which, forfeiture of surety amount of Rs.1 lakh each to the petitioners is ordered to deposit in Government Treasury within 10 days from the date of order.

Learned counsel for the petitioners submits that the petitioners had submitted surety bonds of Rs.1 lakh each before respondent No.2 for grant of four weeks' parole by the Jail authorities to prisoner-Balbir Singh, who was convicted under Section 302 IPC read with Section 34 IPC in FIR No.53 dated 08.05.2008 registered at Police Station Rajound District Kaithal and was undergoing life imprisonment. As per the order of grant of parole, the said prisoner was to surrender on 25.08.2016 (a/n) in the Jail. However, the said prisoner did not surrender on 25.08.2016, on completion of the period but surrendered on the next day i.e.26.08.2016.

The petitioner were issued show cause notice as to why the surety

amount not be forfeited and deposited in the Government Treasury for which they were directed to appear before the District Magistrate on 03.03.2017. The order by the District Magistrate was passed on 03.03.2017, Annexure P-1, whereby the surety amount of Rs.1 lakh each was ordered to be forfeited and deposited in the Government Treasury. It was further ordered that sureties should deposit the said amount in the Government treasury within a period of 10 days, failing which immovable property mentioned in the surety bonds was to be auctioned to recover the said land revenue. Learned counsel for the petitioners submits that the reason for the prisoner Balbir Singh to have not surrendered on 25.08.2016 was that while he was working in fields of paddy crops, at about 5PM he was bit by a snake on account of which his condition became serious and the petitioners along with other family members of prisoner-Balbir Singh took him for treatment to Nagnath Temple situated at Village Ghogharian, District Jind, where he was treated in a customary manner. On the recovery of his health, the petitioners handed him over to the Jail authorities in the early morning i.e., on 26.08.2016. It is thus that the delay in making him surrender had occurred which was not intentional but rather was to only to first save his life. An affidavit in this regards has also been submitted jointly by the petitioners dated 22.04.2017, Annexure P-2. The petitioners are small farmers and very poor persons, who are not in a position to pay the surety amount is the submissions of the learned counsel with a prayer to take a lenient view considering the reason of less than 01 day delay in making the prisoner Balbir Singh surrender before the Jail authorities.

He submits that as per Section 8 and 9 of the Punjab Good Conduct Prisoners (Temporary Release) Act 1962 to submit that where the convict/prisoner does not surrender on expiry of parole he gets 10 days' grace

period to surrender before the jail authorities, failing which only the penalty mentioned therein can be imposed. However, since the prisoner had surrendered on the very next day, the order of desposit of Rs.1 lakh each was illegal and arbitrary.

Learned counsel for the petitioner further relies on the judgment of this Court in the case of ***Dalvir Vs. State of Haryana, 2013(5)RCR (Criminal) 787***, wherein this Court had modified the order of District Magistrate and reduced the amount of Rs.2 lakhs to Rs.20,000/- to be forfeited to the State.

Learned State counsel opposed the prayer made by the petitioners on the ground that the order passed by the District Magistrate was legal and valid and required no interference, it being well reasoned order.

Heard.

It is apposite to advert to the facts of the case in so much so that there was reason, as explained by the petitioners for delay caused in making the prisoner Balbir Singh surrender on 26.08.2016 instead of 25.08.2016, which being a snake bite, for which an affidavit has also been sworn in by the petitioners. It is on account of the aforesaid reason and the said prisoner not being in good health that the delay had occurred in making him surrender. However, on the very next day in the morning of 26.08.2016 the petitioners had handed him over the jail authorities.

This Court in the case of ***Bhajan Singh and another Vs. State of Punjab and others*** had modified the order of deposit of Rs.1 lakh surety amount to Rs.25,000/-, wherein the delay in surrender of the prisoner was on account of he being under treatment of a doctor, due to which he had surrendered after 5 days.

Keeping in view the peculiar facts and circumstances of the case, in particular that there is a justifiable explanation given by the petitioners on account of which the prisoner had surrendered on 26.08.2016 instead of 25.08.2016 and the petitioners being poor farmers, as also in view of the aforesaid order passed by this Court, the impugned order dated 03.03.2017, Annexure P-1 is modified to the extend of Rs.15,000/- each be deposited by the petitioners.

Petition is disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

December 06, 2022

S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No