

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18511-2022 (O&M)
Date of decision: 23.05.2022

Ajit and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Duhan, Advocate
for the petitioners.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for setting aside the order dated 12.04.2022 passed by the Additional Sessions Judge, Jind, vide which application moved by the petitioners for substitution of their sureties, has been declined.

Learned counsel for the petitioners submits that the police registered FIR No.88 dated 13.05.2021 under Sections 148, 149, 201, 323, 506, 379A, 325 IPC and Sections 3 (i)(s) & 3 (2)(v)(a) of SC&ST Act, at Police Station Julana, District Jind against the petitioners and five other

accused and Sukhbir and Sandeep stood surety to the petitioners and they also furnished surety bonds to the tune of Rs.50,000/- each. It is further submitted that since while furnishing surety bonds, Sukhbir and Sandeep furnished some revenue documents, on which an endorsement is made regarding furnishing of sureties, which is creating hurdle in showing their holdings, as without any encumbrance, the petitioners moved an application before the trial Court that sureties be substituted, so as to enable them to take loan from the bank by mortgaging their land, revenue record of which was furnished, while furnishing sureties. It is also submitted that application was, in fact, submitted by the accused persons themselves to allow them to substitute the sureties and furnish fresh surety bonds, however, the trial Court, vide order dated 12.04.2022, declined the application only on the ground that Sukhbir and Sandeep with open eyes and by giving details of their property, stood surety at their own whims.

Learned counsel further submits that the findings recorded by the trial Court are not correct, as Sukhbir and Sandeep want to raise loan and for that purpose, there should be no endorsement of any Court on the revenue record, which was furnished, while furnishing sureties. It is next submitted that the trial Court has wrongly observed that if such application is allowed, it will have the effect of derailing the trial or it will jeopardize the trial. Learned counsel has relied upon an order dated 14.02.2022 passed in ***CRM-M-6352-2022 (Ritesh Vs. State of Haryana and another)***, wherein, in

similar circumstances, this Court allowed substitution of the surety, as there is a specific provision under Section 444 Cr.P.C., which permits discharge of surety.

Learned State counsel could not dispute the factual position that trial Court, while dismissing the application, has not taken care of the provisions of Section 444 Cr.P.C. and has passed the order only on some presumptions, which are not going to effect the trial, if the sureties are substituted.

After hearing learned counsel for the parties and considering the aforesaid submissions, this petition is allowed and the impugned order dated 12.04.2022 passed by the Additional Sessions Judge, Jind, is set aside.

The Additional Sessions Judge, Jind is directed to re-decide the application after taking into consideration the provisions of Section 444 Cr.P.C. and after giving opportunity of hearing to all the concerned parties, within a period of one month from today.

Disposed of, accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

23.05.2022
vishnu

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