

**(201) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-1065-2018

Date of Decision: 17.10.2022

MANINDER SINGH

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. PKS Phoolka, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been preferred against the order dated 22.02.2018 passed by the learned Judge, Special Court, Ludhiana vide which the application of the petitioner for waiving the fine/compensation imposed upon him has been dismissed.

2. The brief facts of the case are that one Jagroop Singh son of Bant Singh was an accused in FIR No.183 dated 26.06.2014 registered under Sections 18 and 25 of the NDPS Act at Police Station Focal Point, Ludhiana. In the said case, the petitioner stood as surety for the Jagroop Singh when he was granted bail.

3. Pursuant to the grant of bail, the accused Jagroop Singh did not come present and the petitioner was issued a notice under Section 446 of Cr.P.C. upon which he appeared in the Court and one month's time was

granted to him to produce the accused. However, the accused did not turn up and ultimately vide order dated 23.10.2017 the entire bond amount of Rs.50,000/- was imposed as penalty upon the petitioner under Section 446 Cr.P.C. and recovery proceedings were initiated against him. The copy of the order dated 23.10.2017 is annexed as Annexure P-1 to the petition.

4. Pursuant to the aforementioned order, an application was moved by the petitioner-Maninder Singh for waiving of the penalty under Section 446 Cr.P.C. It was contended that the petitioner was a poor person and the accused had now surrendered and was appearing in the case. The Court however came to the conclusion that Jagroop Singh/accused had failed to turn up in Court and the petitioner could not produce Jagroop Singh despite availing time from the Court. Therefore, once the petitioner and Jagroop Singh had absented themselves from the proceedings despite an undertaking no cogent justification for remitting any portion of the penalty was made out and therefore, the same was dismissed vide order dated 22.02.2018. Recovery warrants were issued to District Collector, Ludhiana for effecting the recovery of the penalty amount of Rs.50,000/- from the petitioner as arrears of land revenue.

It is this order which is under challenge before this Court.

5. The learned counsel for the petitioner contends that in fact pursuant to Jagroop Singh having absented himself, he had approached this Court vide CRM-M-46411-2017 for grant of anticipatory bail and was granted the liberty to surrender before the Trial Court and seek bail during which period the operation of the order declaring him a proclaimed offender was stayed. Pursuant thereto, the accused Jagroop Singh had surrendered and

had been granted regular bail vide order dated 07.12.2017 (Annexure P-2). He thus contends that once Jagroop Singh had surrendered and was facing trial, the penalty imposed upon the petitioner could be remitted, moreso, when the petitioner himself was a simpleton and a poor person and had no role to play in the non-appearance of Jagroop Singh before the Court.

6. On the other hand, the learned State counsel contends that the petitioner does not deserve the sympathy of the Court as he stood surety for Jagroop Singh and on his absence, the penalty had been rightly imposed upon the petitioner. He however, does not dispute the fact that the said Jagroop Singh had since surrendered and had been facing trial.

7. I have heard the learned counsel for the parties at length.

8. It is not in dispute that initially Jagroop Singh had been granted the concession of bail in November, 2015. He had regularly appeared before the Court and absented himself first time on 11.08.2017. Pursuant to having been declared a proclaimed offender, the petitioner filed a petition before this Court bearing CRM-M-46435-2017, wherein he was directed to surrender within a period of a week and seek bail. In the meantime, the operation of the order declaring him a proclaimed offender had been stayed. Pursuant to the said order dated 07.12.2017 (Annexure P-2), the petitioner had surrendered and was facing trial. Thus, it is apparent that though the petitioner had absented himself for a few months, ultimately he did surrender and was facing trial when the impugned order came to be passed. Undoubtedly, the petitioner was surety for a sum of Rs.50,000/- which was converted to a penalty amount to be recovered as arrears of land revenue. However, it appears that the petitioner has not in any manner facilitated the absence of the

said Jagroop Singh and as such no significant delay in trial has occurred on account of the absence of Jagroop Singh or the lapse of the petitioner.

9. In terms of Section 446(3) Cr.P.C., the Court may after recording its reasons for doing so remit any portion of the penalty mentioned and enforce payment in part only. Thus, this Court has the power to reduce the penalty in the facts and circumstances of a particular case.

10. Keeping in view the aforementioned discussion, I deem it appropriate to reduce the portion of penalty from an amount of Rs.50,000/- to Rs.10,000/- and direct that the same be deposited within a period of four weeks from the date of receipt of a copy of this order failing which appropriate proceedings for recovery in terms of the order dated 22.02.2018 shall be initiated against him.

11. Disposed of.

(JASJIT SINGH BEDI)
JUDGE

17.10.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No