

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

256

**CRM-M-53298-2021 (O&M)
Date of Decision: 29.04.2022**

BALJEET SINGH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Manvinder Sidhu, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 raising a challenge to the order dated 01.12.2021 passed by the Special Judge-cum-Sessions Judge, Sirsa to the extent whereby a condition to deposit the amount of forfeited personal bonds i.e. Rs.50,000/- and furnishing of fresh personal bonds of Rs.50,000/- with two sureties in the like amount has been imposed while extending the concession of bail to the petitioner.

Learned counsel for the petitioner submits that the petitioner had earlier been enlarged on bail vide order dated 20.04.2020 passed by the Additional Sessions Judge, Sirsa, however, he could not appear in the on-going trial before the Court on 14.09.2021 on account of having forgotten the next date of hearing. Resultantly, bail/surety bonds, furnished by the petitioner before the Trial Court, were cancelled and non-bailable warrants were ordered to be issued to secure the presence of the petitioner. The petitioner was taken into custody on 22.11.2021 and was granted the concession of bail vide order

dated 01.12.2021 by the Special Judge-cum-Sessions Judge, Sirsa. However, while allowing the said bail application of the petitioner, a condition was imposed upon the petitioner to the effect that the petitioner shall be required to deposit the amount of forfeited bail/surety bonds i.e. Rs.50,000/- and thereafter shall furnish fresh bail bonds in the sum of Rs.50,000/- with two sureties in the like amount to the satisfaction of the Trial Court. It is contended that the above said conditions are onerous, harsh and have an effect of denying the fruits of the order passed by the Special Judge-cum-Sessions Judge, Sirsa in favour of the petitioner. He submits that the petitioner is a labourer and it is not possible for him to arrange such a huge amount of Rs.50,000/- and then to furnish fresh bail bonds in the sum of Rs.50,000/- with two sureties.

Learned State counsel has, however, opposed the present petition by arguing that the onerous condition had to be imposed since the petitioner had absented himself and chose not to appear before the Trial Court. Therefore, the aforesaid condition had to be imposed upon the petitioner in order to ensure his presence before the Trial Court on all dates during the trial. However, no rebuttal has come forward on the part of the learned State counsel to the argument advanced by the counsel for the petitioner that the petitioner is a labourer. The said assertion is not controverted and there is nothing to show that the petitioner has financial capacity to arrange such a huge amount.

I have considered the rival submissions advanced by the counsel for the respective parties.

It is evident that despite the order of bail having been granted

in favour of the petitioner, he is still languishing in jail on account of his failure to fulfill the requisite conditions imposed upon him. Furthermore, the financial capacity and ability of the petitioner to arrange for the said amount is also not controverted and it is not the case of the State that the petitioner has the financial capacity to arrange for the said surety amount.

It is well settled that while extending the concession of bail, the Court should impose conditions as would allow the beneficiary to reap the fruits of the said order while ensuring that the presence of the accused is well secured. The conditions may not be so imposed as would deny and deprive the accused of the benefit of order passed in his favour. It cannot be assumed that it was easy for the petitioner to arrange for the said amount as it is highly improbable that if it were so, the petitioner would not furnish the requisite bail/surety bonds and would rather prefer to stay behind bars.

The present petition is thus allowed and the order dated 01.12.2021 passed by the Special Judge-cum-Sessions Judge, Sirsa granting bail to the petitioner is modified to the extent that the condition of depositing the amount of forfeited bail bonds i.e. Rs.50,000/- is waived off. Rest of the order of the Trial Court shall remain the same.

Petition is accordingly allowed in terms aforesaid.

(VINOD S. BHARDWAJ)
JUDGE

29.04.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No