

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CRM-M-55433-2022 (O&M)
Date of Decision: 30.11.2022

Shiv Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Simranjeet Singh, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioner is seeking quashing of order dated 18.07.2022 passed in Criminal Appeal No.37 of 2017 pending before Additional Sessions Judge, Fatehabad and restoration of the bail bonds/surety bonds.

Learned counsel for the petitioner submits that the petitioner was awarded sentence of 03 years by trial Court and he preferred an appeal before the Appellate Court which vide order dated 06.12.2018 suspended the sentence on furnishing of bail bonds. The petitioner regularly appeared before Appellate Court. However, on account of non-appearance on 18.07.2022, the Appellate Court has cancelled his suspension of sentence and further forfeited bonds. The petitioner has been awarded sentence of 03 years and has already undergone sentence of 01 year and 11 months.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his

conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

The object of arrest is neither punitive nor preventive. Detention or arrest not only deprives a person from his fundamental right of personal liberty guaranteed by Article 21 but also freedom guaranteed by Article 19(1) of our Constitution. Life of every human being is most precious gift of God and everyone has very limited span of life which cannot be spoiled on account of incompetence, personal grudge, vengeance of someone; or brutal, illegal, unethical action of the State machinery. Except habitual offender, commoners living simple life after arrest lose self-respect and confidence within himself as well State. It has become very common to put criminal law in motion even though dispute involved is purely contractual or civil in nature. Many times arrest entails deprivation of source of income of entire family besides forever stigma in a closely knit society like ours. There is neither mechanism to compensate a man who is later on found innocent nor acquittal can return valuable time, energy, status, future of family members especially children which is lost on account of incarceration of bread earner of the family. Imprisonment before conviction is a sort of punishment especially when rate of conviction in our country is abysmally low.

Keeping in mind:

- i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence.

The petitioner has come forward to face appellate

proceedings and undertakes to appear before Court on each and every date, thus, his presence would meet ends of justice;

- ii) The Petitioner is ready to furnish bond/surety to the satisfaction of the Appellate Court;
- iii) The petitioner is resident of Fatehabad and appeal is pending at Fatehabad, thus, jurisdictional court and police authorities have direct access over the activities of the petitioner.
- iv) The petitioner was awarded sentence of 03 years and he has already suffered incarceration of almost 02 years.
- v) The petitioner is facing criminal proceedings since 2012 and is ready to face appellate proceedings, thus, no prejudice is going to cause to prosecution;

this court is of the considered opinion that present petition needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear on or before Appellate Court on or before 15.12.2022 and furnish fresh bail bond/surety bond.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

30.11.2022
anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>