

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

227

CRA-S-771-SB-2018 (O&M)

Date of decision: 07.02.2023

Sanjay

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Harish Mehla, Advocate
for the appellant.

Mr. Rahul Mohan, DAG, Haryana and
Mr. Chetan Sharma, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The instant appeal has been preferred against the order dated 07.12.2017 passed by learned Additional Sessions Judge, Kaithal in Criminal Case No.21 of 2016 titled as 'State Vs. Sanjay'.

Learned counsel for the appellant *inter alia* contends that after the suspension of sentence of accused Kunal @ Karnail, he had been regularly appearing before the learned Lower Appellate Court, however, on 24.08.2017 accused Kunal @ Karnail was unable to appear before the Court on account of genuine reasons as a result of which bail was cancelled and notice issued to the appellant being a surety of the accused. Learned counsel further submits that subsequently accused Kunal @ Karnail was found lodged in a De-Addiction Centre and accordingly, the production warrants for securing his presence were issued on **06.02.2018**. Accused Kunal @ Karnail was produced before the Trial Court and later on vide order dated 08.08.2018 was admitted to bail by the learned Trial Court. Learned counsel thus prays that since accused Kunal @ Karnail has already

been produced and subsequently granted bail by the Court concerned, it would be highly prejudicial and would also serve no useful purpose to recover the amount of surety from the petitioner, moreso, when he had deposited a sum of Rs.25,000/- before the Trial Court in compliance of order dated 23.02.2018 passed by a Coordinate Bench of this Court.

Learned State counsel on instructions has not disputed that accused Kunal @ Karnail was produced before the Trial Court on 15.03.2018 and thereafter extended the concession of bail vide order dated 08.08.2018.

I have heard learned counsel and perused the relevant material on record.

Admittedly, after cancellation of his bail vide order dated 24.08.2017, accused Kunal @ Karnail had been produced before the Trial Court on 15.03.2018 and was subsequently enlarged on bail by the Trial Court.

Therefore, in the aforesaid circumstances coupled with the fact that the appellant had deposited the amount of Rs.25,000/- before the Trial Court in compliance of order dated 23.02.2018, this Court does not deem it appropriate to further subject the appellant to recover an amount of Rs.1 lakh.

As a sequel to the above, the instant appeal is allowed and the order dated 07.12.2017 whereby a penalty of Rs.1 lakh had been imposed upon the appellant, is set aside.

07.02.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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