

261 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11844-2023
Date of Decision:13.09.2023

Prem Chand and Anr.

...Petitioners

Vs.

State of Haryana & Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Sukhdeep Singh, Advocate
for the petitioners.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.Shekhawat J.

1. The petitioners have challenged the order dated 18.10.2022 (Annexure P-3) passed by Sub-Divisional Magistrate, Karnal whereby the penalty of Rs.2,00,000/- each has been imposed on the petitioners, as the convict Manu@ Shubham had overstayed for the period from 24.04.2021 to 09.11.2021.

2. Learned counsel for the petitioners contends that Manu@ Shubham, accused was convicted and sentenced by the Court of Additional Sessions Judge, Karnal in case arising out of FIR No.117, dated 06.04.2016 registered under Sections 302,201,34 of IPC, Police Station Bhutana, District Karnal.

3. The appeal filed by the said convict is pending for adjudication before this Court. In the meanwhile, Manu @ Shubham, convict was ordered to be released on parole by the order of District Magistrate, Karnal with effect from 27.04.2020 and was to surrender on or before 19.05.2020. Thereafter, Manu @ Shubham, convict had surrendered on 19.05.2020 before the jail

authorities at Karnal. However, certain restrictions has been imposed due to pandemic Covid-19 and the jail authorities had refused to accept the surrender of convict in District Jail, Karnal and the parole period of convict was extended from time to time. Learned counsel further contends that the petitioners are rustic villagers and had no knowledge of extension of period of parole of the convict after 19.05.2020. Even they had stood surety for the convict for a period of 03 weeks i.e 27.04.2020 to 19.05.2020. Even on earlier occasions the convict availed the parole and had surrendered on time, however, due to pandemic Covid-19 he could not surrender on 24.04.2021. Learned counsel further contends that on getting the knowledge about the fact that Manu @ Shubham had not surrendered in time, they made sincere efforts to locate him. On the search conducted by the petitioners, it was found that the convict was admitted in Civil Hospital, Panipat and they had immediately informed the jail authorities and the convict was arrested on 09.11.2021. Learned counsel further submits that the petitioners are poor persons and rustic villagers and had stood surety for the convict only for a period of three weeks. They had no knowledge regarding the extension of parole, granted to the convict. Even when they came to know about the fact that the convict had not surrendered, they had searched the convict and intimation was provided to the jail authorities. Accordingly, the convict was again arrested on 09.11.2021. Learned counsel further contends that both the petitioners are old persons and they have unmarried children. They are the sole bread earners of their families and the case of the petitioners deserve sympathetic consideration by this Court. Learned counsel for the petitioners also relied upon the law laid down by the this Court in the matter of

Naib Singh and another Vs. State of Haryana (Annexure P-4), Urmila Devi

and another Vs. State of Haryana (Annexure P-5) and Gopal Kaur Vs. State of Punjab,2011 (6) RCR (Cr.)1394.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioners on the ground that they stood surety for the convict and are liable to make the payment of Rs.2,00,000/- as per their respective bonds.

5. I have heard the learned counsel for the parties and considering the fact that both the petitioners are farmers and they have unmarried children and are the sole bread earners of their respective families, the penalty imposed on the petitioners by SDM, Karnal is ordered to be reduced to Rs.10,000/-each and the petition is accordingly disposed off.

13.09.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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