

CRWP-6838-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision:-18.07.2023

Tarsem Lal and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Jagjot Singh Lalli, Advocate for the petitioners.

Mr. Kamalpreet Bawa, AAG, Punjab.

ALOK JAIN, J. (Oral)

1. The present petition has been filed raising challenge to the order dated 30.05.2023 (Annexure P-1) vide which the property of the petitioners is ordered to be attached.
2. Learned counsel for the petitioners has submitted in brief that the petitioners had furnished a surety bond to the tune of Rs. 1,00,000/- in favour of one Amartej Singh, who had been convicted in FIR No. 98 dated 17.05.2013 Police Station Sadar, Jagraon vide order dated 04.07.2016. Subsequently, the said Amartej Singh filed an appeal before the Hon'ble High Court which was also came to be dismissed in 2019. However, in the year 2022, the said accused while in custody sought his release on parole before respondent No. 2 which was granted and at that stage, the present petitioners furnished two surety bonds to the tune of Rs. 1,00,000/- each for

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release of the accused Amartej Singh. Apparently, the said accused Amartej Singh did not surrender back and in fact, the petitioners were not even aware of the said fact that the said Amartej Singh did not surrender.

3. It is a categoric case of the petitioners that subsequent thereto, they were never served with any notice or otherwise and all of a sudden, the warrants of attachment came to their residence on 30.05.2023. Despite best efforts, they could not lay their hand on any order passed by the District Magistrate, Ludhiana on 02.05.2023 which is the basis for execution of impugned attachment order.

4. The short prayer made by the petitioners is that there is violation of Section 446 Cr.P.C. which describes the procedure when the bonds have to be forfeited. He further submits that the said provisions has to be read along with Rule 10 of Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, which has not been complied with, much less the principles of natural justice have also been violated, as no opportunity of hearing was granted.

5. Heard learned counsel for the petitioners.

6. In light of the order being passed in this petition, there is no need to seek the reply of the State. Accordingly, to meet the ends of justice, the order dated 30.05.2023 (Annexure P-1) is directed to be kept in abeyance and the petitioners are directed to present themselves before respondent No. 2-District Magistrate, Ludhiana, Punjab on 27.07.2023 or on any other date as may be fixed by District Magistrate, Ludhiana.

7. The respondent No. 2 is also directed to reconsider and pass a fresh order with regard to forfeiture of the surety bonds of the petitioners

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after complying the provisions of law and principles of natural justice and considering all the relevant factors.

8. This Court has complete faith in the competent Court/Authority who shall pass a fresh order as directed above within a maximum period of 4 months. Needless to state that the same shall be without being influenced by the impugned order already passed which is kept in abeyance.

9. The petitioners have also voluntary stated that they shall not create any third party rights or encumbrance over the said property till the matter is adjudicated in accordance with law.

10. It is also made clear that in case, even thereafter, if the property is to be attached, a fresh order after considering all the relevant factors shall be passed in accordance with law.

11. With above directions, the present petition stands disposed of.

(ALOK JAIN)
JUDGE

July 18, 2023
Parul

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No