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The present petitioners, namely, Sanjay Sharma and Sonu Sharma furnished surety bonds to the tune of Rs.2 lakh each and the accused-Gurcharan @ Radhey Shyam was released on furlough for two weeks on 18.03.2020 and was directed to surrender on 02.04.2020 by the Superintendent, District Jail, Gurugram. On 02.04.2020, the petitioners produced the accused-Gurcharan @ Radhey Shyam before the Superintendent, District Jail, Gurugram but the petitioners were told that due to pandemic COVID-19, the High Power Committee increased the period of furlough for the prisoners till further orders who were released on furlough and extended the furlough of the above accused till 15.02.2021. On 11.02.2021, the High Power Committee ordered to all the prisoners to surrender in jail who were on furlough in nine phases, according to which, the accused was to surrender in the jail on 23.02.2021 but he failed to appear before the Jail Authorities on that date, due to which, the accused was arrested by the police on 08.03.2021 in a case bearing FIR No.90 dated 05.03.2021 under Sections 8/9 HGCP Act registered at Police Station Sector 9-A, Gurugram. It is further alleged that the petitioners were never intimated by the Jail Authorities to produce the above said accused on 23.02.2021 and the accused was arrested from his house as he was not aware about the fact that he was to surrender on 23.02.2021. On submission of report by the Superintendent, District Jail, Gurugram, the learned District Magistrate vide order dated 31.05.2023 issued notice to the petitioners under Section 446 of Cr.P.C. to appear on 05.07.2021 and when the petitioners appeared, the learned District Magistrate has held that the accused violated the condition of the surety bonds and also violated Section 8 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 and imposed whole of the surety amount i.e.

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Rs.2 lakhs as penalty on each of the petitioners vide order dated 04.04.2022 (Annexure P-1) and further directed to recover the said amount from the petitioners as an arrears of land revenue.

Learned counsel for the petitioners *inter alia* contends that there is no allegation against the petitioners that they connived with the accused/prisoner i.e. Gurcharan @ Radhey Shyam in overstaying the furlough period. He further contends that father of the petitioners had expired on 03.10.2021 and due to unavoidable circumstances in the family, the petitioners were not able to appear before the learned District Magistrate after 15.11.2021. It is further contended that the petitioners belong to lower middle class family and have small piece of land in their name through which they earn their daily livelihood.

He further submits that the accused was granted the suspension of sentence by this Court vide order dated 06.08.2021 and he was granted bail by the learned trial Court vide order dated 26.08.2021 in a case bearing FIR No.90 dated 05.03.2021 under Sections 8/9 HGCP Act registered at Police Station Sector 9-A, Gurugram.

Counsel for the petitioners also submitted that in view of the said circumstances, imposition of the penalty of Rs.2 lakhs on each of the petitioners against surety amount, is on higher side. He has relied upon the judgment passed by this Court in '**Bhagat Singh Vs. State of Haryana**' 2018 (2) R.C.R. (Criminal) 337, wherein it is held as under:-

*“Counsel for the appellants has relied upon the judgment passed by this Court “**Mohinder Singh vs The State of Punjab**”, 2008(22) RCR (Criminal) 704, “**Angrej Singh vs State of Punjab**”, 2010(4) RCR (Criminal) 580 and “**Gopal Kaur vs State of Punjab**”, 2011(6)*

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RCR (Criminal) 1394, wherein this Court has while imposing penalty under Section 446 Cr.P.C. has held that the amount of penalty may be reduced to 1/4th of the amount of surety bonds.”

The learned State counsel has filed the reply dated 21.11.2023 by way of affidavit of Sh. Satyabhan, Deputy Superintendent, District Prison, Gurugram in the Court today which is taken on record and could not dispute the factual position.

After hearing the counsel for the parties, in order to avoid further delay in disposal of the proceedings before the learned trial Court and considering the fact that there is no allegation against the petitioners that they connived with the accused/prisoner i.e. Gurcharan @ Radhey Shyam in overstaying the furlough period and also the fact that due to their present condition and no independent source of income to pay the penalty amount of Rs.2 lakhs each as sureties, the present petition is partly allowed and the penalty amount of Rs.2 lakhs imposed by the learned District Magistrate on each of the petitioners, namely, Sanjay Sharma and Sonu Sharma, in terms of the impugned order dated 04.04.2022 (Annexure P-4), is reduced to Rs.50,000/- each. The penalty amount of Rs.50,000/- on each of the petitioners as sureties, shall be forfeited in favour of Haryana Government and the same be deposited within a period of 03 months from today, failing which, this petition would automatically stand dismissed without any further orders.

(HARPREET SINGH BRAR)
JUDGE

23.11.2023

Neha

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