

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46540-2023

Date of Decision :- 03.11.2023

Joginder Singh @ Jogender Singh and another

.....Petitioners

Versus

State of Haryana and another

.....Respondent

CORAM:- HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Amit Chahal, Advocate for the petitioners.

Mr.Ramender Singh Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

1. Petitioners have made a challenge to orders dated 06.06.2023, Annexure P2, passed by learned Additional Sessions Judge, Jind, as well as order dated 07.01.2022, Annexure P1 passed by learned District Magistrate, Jind.

2. Petitioners stood sureties for one Deepak, a convict, who was lodged in District Jail, Jind and was released on furlough by the Commissioner, Hisar Division vide order dated 16.09.2021 for a period of 3 weeks to meet his family. However, on completion of period, Deepak did not surrender. On 29.10.2021, Superintendent, District Jail, Jind

moved a complaint before Police Station Pillu Khera, District Jind and FIR No.260 dated 29.10.2021 was registered under Sections 8 and 9 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 against Deepak. Notice was issued to both the sureties, who appeared and Deepak was produced before the authorities, and he was sent to District Jail, Jind. Show-cause notice was issued to the petitioners for violating of condition No.3 of the surety bond and by impugned order, Annexure P1, penalty of Rs.2 lakh each was imposed upon them and they were directed to deposit the amount in the Treasury within one month. In revision, learned Additional Sessions Judge, Jind modified the order, and directed the petitioners to deposit Rs.1.50 lakh each. It is in this background that the present petition has been filed before this Court.

3. Counsel for the petitioners has urged that upon being served, the petitioners explained that the convict was produced before the police on 22.11.2022 by his father and he is in detention. Counsel submits that the petitioners being sureties have been instrumental in his producing and as they have fulfilled their obligation, the fine deserves to be waived. It has been asserted that petitioners hold small pieces of land measuring 11 kanal 7 marlas and 5 kanal 1 marla, respectively and do not have the financial capacity to deposit the penalty.

4. Notice of motion.

5. On asking of the Court, Mr.Ramender Singh Chauhan, AAG, Haryana, accepts notice on behalf of respondent – State. He has opposed the prayer made by the petitioners. He submits that there was a delay of 34 days in surrender by Deepak and the petitioners, who had stood as his

sureties are bound to deposit the penalty.

6. Having heard counsel for the parties, this Court is of the view that amount deserves to be reduced as convict has been produced before the authorities with the active participation of the petitioners. Even though, the convict was released on a furlough for a period of 3 weeks and failed to surrender within time but with the efforts made by the petitioners, he was produced and has been lodged in prison. Furthermore, there is no material to show that any burden was caused on the State Exchequer or any expense had to be entailed by the State to apprehend the absconding convict. Still further, it is of the prime importance that there is no allegation against the petitioners that they had connived with the convict or were in the know that he was planning to absent himself.

7. Section 446(3) Cr.P.C. vests ample power in the Court to remit any portion of penalty and enforce payment, in part only, after recording its reasons for doing so. Noticing the role played by the petitioners, their financial background as both of them are marginal farmers, this Court by order dated 19.09.2023 directed them to deposit a consolidated amount of Rs.50,000/-, which they have done.

8. Counsel for the petitioners has produced on record the original copies of two E-challans dated 04.10.2023 whereby petitioners have deposited a sum of Rs.25,000/- each. Both the receipts are taken on record.

9. In view of the above factual background and the legal position as noticed above, this Court is of the view that ends of justice would be met if the amount of the penalty is reduced to a consolidated sum of

Rs.50,000/-, which has been deposited and the balance amount is ordered to be remitted.

- 10. Impugned orders are modified accordingly.
- 11. Petition is disposed of.

03.11.2023		(SUVIR SEHGAL)
Brij		JUDGE
Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No