

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

121. CRM-M No.3157 of 2024 (O&M)
Date of Decision:20.02.2024

Surender and another ... Petitioners
Versus
State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of the impugned order dated 24.04.2020 (Annexure P-1) passed by respondent No.2 whereby petitioners have been directed to deposit the surety amount of Rs.2 lakh each as mentioned in the surety bonds executed by the petitioners for getting the convict Joginder son of Sukhbir, released on parole, who was undergoing life imprisonment in FIR No.89 dated 28.05.2003 registered under Sections 302, 34 IPC at Police Station Sadar Sonipat, District Sonipat.
2. Learned counsel for the petitioners *inter alia* contends that respondent No.2-District Magistrate, Sonipat has initiated proceedings under Section 446 Cr.P.C. on the ground that prisoner Joginder son of Sukhbir did not surrender on time after availing parole of six weeks. It is further contended that the impugned order was passed in a mechanical manner and in complete violation of the principles of natural justice. Petitioners were neither served with any notice nor any opportunity of hearing was given to them. They stood surety for convict Joginder in good-will, who did not violate any of the terms and

conditions of the parole, rather he remained absent only for two days due to his suffering from dengue. He surrendered himself before the jail authorities after his health condition improved. As such, petitioners cannot be held liable for two days' absence of convict-Joginder. In fact, the convict has already completed his sentence as he has been released prematurely on 26.09.2021. It is also contended that petitioners are poor persons and they are not in a position to deposit the abovesaid amount as directed by respondent No.2.

3. Notice of motion.

4. Ms. Geeta Sharma, DAG, Haryana, who is present in Court accepts notice for the respondents and submits that once the convict was not able to surrender on time, the District Magistrate was well within his right to initiate proceedings under Section 446 Cr.P.C., however, she could not controvert the fact that the impugned order was passed in violation of principles of natural justice.

5. I have heard learned counsel for the parties and with the consent of parties, the matter is taken up for final disposal.

6. A perusal of the impugned order reveals that respondent No.2 passed the said order without affording any opportunity of hearing to the petitioners and adhering to the principles of natural justice. The convict-Joginder was not able to surrender before the jail authorities owing to his ill-health and it is admitted fact that he himself surrendered before the jail authorities after two days of the stipulated date of surrender.

7. In view of the aforesaid facts and circumstances, the impugned order dated 24.04.2020 is set aside and the matter is remitted back to respondent No.2-District Magistrate, Sonipat for passing a fresh order by issuing notice

to the petitioners and affording adequate opportunity of hearing within a period of three months from the date of receipt of certified copy of this order.

8. With the aforesaid observations, the instant petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

February 20, 2024
Pankaj*

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