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IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-1424-2023 (O&M).
Date of Decision: 21.05.2024.

AMRENDER SINGH

.. Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Munish Garg, Advocate,
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the order dated 25.11.2022 passed by respondent No.2-District Magistrate, Barnala, vide which the petitioner had been directed to deposit a sum of Rs.2 lakhs in default of parole by the prisoner namely Lovepreet Singh @ Ladi.

2 Learned counsel appearing on behalf of the petitioner contends that the District Magistrate, Barnala, had ordered release of prisoner namely Lovepreet Singh @ Ladi on parole for a period of 08 weeks vide order dated 16.09.2020. He was required to surrender on 12.11.2020. The petitioner furnished surety for securing the release of prisoner Lovepreet Singh @ Ladi and submitted his bonds for a sum of Rs. 2 lakhs on the basis

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of ownership of his land situated at Waka Raqba Kalyan Sadda, Tehsil Nathana, District Bathinda. However, on account of the orders issued by the High Powered Committee due to ongoing Covid – 19 Pandemic, the period of parole of prisoners was increased from time to time and hence, it is contended that the actual date of surrender was never communicated to prisoner Lovepreet Singh @ Ladi. It is further submitted that as per the orders passed by the High Powered Committee, prisoner Lovepreet Singh @ Ladi was to surrender at the District Jail, Barnala on 08.05.2021, however, as he was unaware of the date of surrender, he could not appear before the Jail authorities. Accordingly, FIR No.35 dated 16.05.2021 under Section 9 of the Punjab Good Conduct Prisoner Temporary Release Act, 1962 was registered at Police Station, Bhadaur. Thereafter, prisoner Lovepreet Singh @ Ladi was produced by his mother Jaswinder Kaur in Police Station, Bhadaur as per the orders of the local police. It is further submitted that family members of prisoner Lovepreet Singh @ Ladi also discussed the matter about the date and time of surrender with the Jail Superintendent, Faridkot, however, each time they were informed that the prison authorities would themselves inform the prisoner Lovepreet Singh @ Ladi about the date of surrender and that the same having not been done, the necessary follow up action could not be taken. It is submitted that even though Jaswinder Kaur mother of prisoner Lovepreet Singh @ Ladi produced him before the local police, however, he was not taken into custody as a test was required to be done according to the Protocol of Covid – 19 Pandemic and thereafter, he was taken into custody after the test on

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17.05.2021. It is submitted that in this manner, prisoner Lovepreet Singh @ Ladi overstayed for a period of 09 days and that the said absence of prisoner Lovepreet Singh @ Ladi was neither willful nor voluntary but it was only on account of lack of clarity due to the paroles being extended by the High Powered Committee and subsequent Government orders being issued at the last minute after reviewing the situation regarding Covid -19 Pandemic. He submits that notwithstanding the above said peculiar circumstances, the District Magistrate, Barnala has passed the impugned order whereby the surety furnished by the petitioner has been ordered to be forfeited and the petitioner has been directed to deposit the surety bond amounting to Rs.2 Lakhs.

3 On the other hand, learned State counsel contends that the prisoner Lovepreet Singh @ Ladi did not surrender within the time schedule and that he had to be eventually arrested and produced before the Court on 17.05.2021. There was thus a breach of terms and conditions of surety bond furnished by the petitioner and that the order has rightly been passed by the competent authority viz the District Magistrate, Barnala.

4 Be that as it may, taking into consideration the peculiar facts of the present case and also noticing that there was a large scale confusion amongst the general public due to Covid – 19 pandemic and that orders granting extension of parole/suspension of sentence were being passed at the last moment. Due to the lack of clarity, the explanation offered by prisoner Lovepreet Singh @ Ladi cannot be said to be an afterthought and rather, is reflective of the prevailing circumstances. Further, the stand of the

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petitioner that Jaswinder Kaur, the mother of prisoner Lovepreet Singh @ Ladi produced him before the local police, however, they did not take any interest on account of Covid -19 pandemic has also not been denied.

5 Under the said circumstances, the Court accepts that there was a just cause and explanation for failure on the part of prisoner Lovepreet Singh @ Ladi in surrendering on expiry of the period of extended parole on 08.05.2021. The said act cannot be said to be deliberate or willful. The direction to deposit a sum of Rs.2 Lakh would thus be highly disproportionate considering that the prisoner Lovepreet Singh @ Ladi is not involved in any other offence and has not misused the concession of parole at any point of time. Failure also appears to be more on account of the prevailing Covid – 19 pandemic situation. The surety amount as ordered vide impugned order is modified and the same is reduced to Rs.10,000/- (Rupees Ten Thousand Only).

6 The present petition is partly allowed accordingly.

May 21, 2024.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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