

249 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CRM-M-33739-2017
Date of decision: 12.03.2024

Matu and anotherPetitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arvinder Arora, Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG Haryana

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed by the petitioners under Section 482 of Cr.P.C. seeking quashing of proceedings initiated against them under Section 446 of Cr.P.C. and setting aside the order dated 14.03.2017 (Annexure P-2) passed by the learned Deputy Commissioner, Ambala, whereby, recovery proceedings for an amount of Rs. 2,00,000/- from each of the two petitioners has been initiated.

2. Learned counsel for the petitioners argued that the petitioners stood surety for an accused- Sunny Verma who is facing life imprisonment upon being convicted by the learned Additional Sessions Judge, Ambala in a case stemming from FIR, bearing no. 228, dated 25.11.2007 under Sections 302, 364, 201 of IPC, registered at police station Naraingarh. He further submits that in compliance of the order of the Deputy Commissioner, Ambala, dated 07.12.2016 (order no. 2088/P.A.) Sunny Verma was released on parole on 08.12.2016 by the Superintendent, Central Jail-2, Hisar for a period of six

weeks on furnishing surety bonds to the tune of Rs.2 lakhs each by both the petitioners and as per the said order, Sunny Verma had to surrender before the Jail Authorities on 20.01.2017 but he failed to surrender himself and, thereafter, the learned Deputy Commissioner issued show cause notice on 06.02.2017 to the petitioners, being surety of Sunny Verma under Section 446 of Cr.P.C (Annexure P-1). This was followed by the notice of recovery (Annexure P-2), dated 14.03.2017, whereby the learned Deputy Commissioner directed that the amount of Rs. 2,00,000/- be recovered from each of the two petitioners as arrears of land revenue. It is also submitted that the convict- Sunny Verma had surrendered before the jail authorities and has been lodged in Central Jail, Ambala since 22.11.2017. Learned counsel further averred that view of the changed circumstances i.e., the convict surrendering before the jail authorities, the impugned order may kindly be set aside.

3. Per contra, learned State counsel argued that the convict by not surrendering before the jail authorities on 20.01.2017 i.e., after the expiry of 06 weeks of parole, he has violated the terms and conditions under Section 8(1) of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988. Moreover, the petitioners have also violated the terms and conditions which were imposed by the Deputy Commissioner, Ambala at the time of accepting the furnished sureties of the petitioners. Therefore, the surety amount was rightly forfeited. With regard to the submission that the convict surrendered before the jail authorities and has been lodged in Central Jail, Ambala since 22.11.2017, learned State counsel submitted that while it is true that the convict was lodged in Central Jail, Ambala on 22.11.2017, however, the circumstances in which he was lodged are different. The convict was arrested and subsequently was brought before the learned Court of Sub Divisional Magistrate, Naraingarh on

22.11.2017 in FIR, bearing no. 29 dated 26.01.2017 under Section 8, 9 of Parole Act, and after the said appearance, the convict was sent to Central Jail, Ambala. Hence, it is not a case of surrender as averred by learned counsel for the petitioners.

4. Heard learned counsel for both the parties and perused the records of the case.

5. A similar issue was decided by the Hon'ble Supreme Court in '*Mohammed Kunju v. State of Karnataka*' 1999 (4) RCR (Criminal) 726 and this Court in '*Bhagat Singh v. State of Haryana*' 2018 (2) RCR (Criminal) 337, '*Mohinder Singh v. The State of Punjab*' 2008 (22) RCR (Criminal) 704, '*Angrej Singh v. State of Punjab*' 2010 (4) RCR (Criminal) 580 and '*Gopal Kaur v. State of Punjab*' 2011 (6) RCR (Criminal) 1394, wherein, the penalty imposed under Section 446 of Cr.P.C. was reduced to 1/4th of the amount of surety bonds by holding that the said bonds were on the higher side.

6. The petitioners had no knowledge that the convict would not surrender on time and there are no allegations of collusion between the petitioners and the convict with regard to the convict not surrendering on 20.01.2017 i.e., the expiry date of parole.

7. Keeping in view the facts and circumstances of the case, this Court is of the opinion that the interest of justice would be served in allowing the present petition. Resultantly, the impugned order dated 14.03.2017 (Annexure P-2) is hereby quashed.

8. The amount of penalty of Rs. 2 lakhs imposed on each of the petitioners is reduced to Rs. 25,000/- each. If the said amount of Rs. 25,000/- has not been deposited or recovered from the petitioners so far, they are directed to deposit the same with the Deputy Commissioner, Ambala within a period of

03 months from today, failing which, this petition would automatically stand dismissed without any further orders.

9. Disposed of, in the aforesaid terms.

(HARPREET SINGH BRAR)
JUDGE

12.03.2024
Neha

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