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

CRM-M-21617-2024

Date of decision: 08.05.2024

Sita Ram

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sunil Kumar, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing of order dated 29.08.2019 passed by District Magistrate, Sonapat vide which petitioner and one another surety were directed to deposit a sum of Rs.2 lac each by way of penalty, in proceedings under Section 446 Cr.P.C.
2. The brief facts of the case are that Pardeep son of Sita Ram was convicted and sentenced to imprisonment in a criminal case having FIR No.381 dated 21.11.2008 under Sections 302, 307, 325, 323, 449 IPC and 25 of Arms Act, registered at Police Station Model Town, Rewari, by the Court of Additional Sessions Judge, Rewari vide judgment and order dated 7/14.05.2011 and he was lodged in District Prison, Gurugram. Pardeep was granted parole for a period of 4 weeks and he was to surrender before the jail authorities on expiry of the period of parole. However, he overstayed parole and did not surrender within the given time period. At the time of release of Pardeep on parole, petitioner Sita Ram and one another person stood surities



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and both of them furnished surety bonds in sum of Rs.2 lac each. As Pardeep, failed to surrender in time, District Magistrate, Sonapat initiated proceedings under Section 446 Cr.P.C. against petitioner and one another surety and passed impugned order dated 29.08.2019 Annexure P-5 whereby penalty of Rs.2 lac each was imposed on them. Being aggrieved, the petitioner has filed the present petition.

3. Counsel for the petitioner submits that when Pardeep was released on parole, immediately thereafter, he was arrested in a criminal case having FIR No.85 dated 21.03.2016 under Sections 376, 120-B, 506 and 450 IPC, registered at Police Station Sadar Sonapat and as such, the said convict failed to surrender within given time period. It is further submitted that in the meantime, the appeal filed by Pardeep against judgment and order dated 07.05.2011 was allowed and he was acquitted by division Bench of this Court vide judgment dated 26.02.2019 (Annexure P-4). Counsel for the petitioner further submits that Pardeep failed to surrender within given time period due to unavoidable circumstances, as he was arrested in another criminal case having FIR No.85 dated 21.03.2016. It is further submitted that in the instant case, Pardeep was acquitted on 26.02.2019 whereas impugned order was passed by concerned District Magistrate on 29.08.2019. It is further submitted that the petitioner is aged about 75 years and is not in a position to pay aforesaid penalty of Rs.2 lac. It is further submitted that Pardeep never absconded. That in the given circumstances, penalty of Rs.2 lac imposed by District Magistrate, Sonapat is excessive and arbitrary and deserves to be set aside or requires to be modified.

4. Notice of motion.



5. Mr. Neeraj Sheoran, DAG, Haryana, accepts notice on behalf of the State and submits that Pardeep who was convicted and sentenced to imprisonment in a criminal case having FIR No.381 dated 21.11.2008, was granted parole and petitioner stood surety for him in sum of Rs.2 lac. That Pardeep overstayed Parole and consequently, District Magistrate concerned initiated proceedings under Section 446 Cr.P.C. and finally passed impugned order Annexure P-5 in accordance with law and that there is no illegality or perversity in the impugned order. It is further submitted that as per Annexure P-4, Pardeep was acquitted in aforesaid criminal case having FIR No.381 dated 21.11.2008. The State counsel further submits that from the perusal of Annexure P-4, it appears that Pardeep was arrested in one another case having FIR No.85 dated 21.03.2016 under Sections 376, 120-B, 506, 450 IPC, Police Station Sadar Sonapat.

6. I have considered the submissions made by counsel for the parties.

7. Admittedly, petitioner stood as a surety in sum of Rs.2 lac for Pardeep who was convicted and sentenced to imprisonment in a criminal case having FIR No.381 dated 21.11.2008, wherein he was ordered to be released on parole in year 2016. Consequently, Pardeep was released from jail. It appears that in the meantime, Pardeep was arrested in one another case having FIR No.85 dated 21.03.2016 under Sections 376, 120-B, 506, 450 IPC, Police Station Sadar Sonapat and subsequently, he was sent to District Jail, Sonapat on 26.03.2016 in aforesaid rape case. Due to this very reason, Pardeep failed to surrender before the jail authorities concerned, immediately, on expiry of period of parole and thus, overstayed parole due to afore-stated



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unavoidable circumstances which were beyond his control. Further from the perusal of judgment Annexure P-4 dated 26.02.2019, it is evident that Pardeep was finally acquitted in criminal case having FIR No.381 dated 21.11.2008 wherein Pardeep was earlier released on parole but he overstayed said parole. From the perusal of impugned order Annexure P-5, it appears that the same was passed by District Magistrate concerned in a mechanical manner without taking into consideration the aforesaid circumstances which goes in favour of Pardeep as well as the present petitioner. In the light of the aforesaid mitigating circumstances and further the petitioner being 75 years of age, penalty of Rs.2 lacs imposed on petitioner by the District Magistrate, Sonapat appears to be excessive and arbitrary and thus, is not sustainable and deserves to be modified.

8. Taking into consideration the peculiar facts and circumstances of the case, as are discussed above and to meet the ends of justice, it will be appropriate if the aforesaid penalty is reduced to certain nominal amount.

9. For the foregoing reasons, the present petition is allowed to the extent that the amount of penalty to be deposited by petitioner is reduced to the nominal amount of Rs.7500/- in place of Rs.2 lac as was directed by District Magistrate, Sonapat vide order Annexure P-5.

10. The present petition is disposed of in aforesaid terms with direction to the petitioner to deposit aforesaid penalty of Rs.7500/- within a period of next 2 weeks from today.

08.05.2024*Yogesh***(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned:-
Whether reportable:-****Yes/No
Yes/No**