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

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Date of decision: 13.05.2024

Chand Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Salman Ahmed, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing of orders dated 09.01.2024 (Annexure P-6) and dated 20.03.2024 (Annexure P-7) passed by the Court of Ld. Sessions Judge, Karnal vide which petitioner is directed to deposit a sum of Rs.50,000/- by way of penalty as he stood surety for accused Mohammad Faizal.

2. The brief facts of the case are that Mohammad Faizal was convicted and sentenced to imprisonment under Section 138 NI Act by the Court of Judicial Magistrate Ist Class. Being aggrieved, Mohammad Faizal filed a criminal appeal and in the said appeal his sentence was suspended subject to furnishing of requisite bail bonds. The present petitioner stood as a surety for Mohammad Faizal and gave undertaking that in case Mohammad Faizal got absented, he would deposit Rs.50,000/- in the state treasury. In the said criminal appeal, Mohammad Faizal got absented and consequently, his warrants of arrest were issued with notice to the petitioner being his surety. Thereafter, the appellate Court passed order dated 09.01.2024 (Annexure P-6) with direction to the collector concerned to recover, the amount of Rs.50,000/- as arrears of land revenue from the present petitioner who stood as surety for Mohammad Faizal. Thereafter, the said Court also issued reminder to the collector concerned in this regard



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vide order (Annexure P-7). Being aggrieved, the petitioner has filed the present petition under Section 482 Cr.P.C. seeking quashing of the aforesaid orders Annexures P-6 and P-7.

3. Counsel for the petitioner submits that the petitioner is a poor person and further Mohammad Faizal who got absented is now arrested and is in custody as is evident from order (Annexure P-7) dated 20.03.2024. So, prayer is made that the impugned orders be set aside.

4. Notice of motion.

5. Mr. Neeraj Sheoran, DAG, Haryana, accepts notice on behalf of the State and submits that petitioner stood as surety for Mohammad Faizal who got absented in an appeal filed under Section 138 NI Act and consequently, the appellate Court concerned rightly passed order Annexure P-6 dated 09.01.2024 and even subsequent order Annexure P-7 is also passed in accordance with law.

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

7. Admittedly, petitioner stood as a surety in sum of Rs.50,000/- for Mohammad Faizal who jumped bail in a criminal appeal filed by him. Consequently, the appellate Court cancelled the bail order and issued warrants of arrest of Mohammad Faizal and at the same time, issued notice to the petitioner under Section 446 Cr.P.C.. It appears that in the meantime, Mohammad Faizal was arrested by the police as is evident from Annexure P-7.

8. The object of the aforesaid proceedings initiated by the appellate Court was to procure the presence of Mohammad Faizal, so as to dispose of the criminal appeal filed by him at the earliest. It has come on the record, that subsequently, Mohammad Faizal was arrested and is presently lodged in judicial custody. In the light of the aforesaid mitigating circumstance and the fact that the petitioner belongs to poor family as has been stated by his counsel, penalty of Rs.50,000/- imposed on petitioner by the Court of Ld. Sessions Judge, Karnal requires to be reduced being excessive and thus, deserves to be modified.

9. Taking into consideration the peculiar facts and circumstances of



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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.

10. 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.5,000/- in place of Rs.50,000/- as was directed by Ld. Sessions Judge, Karnal.

11. The present petition is disposed of in aforesaid terms with direction to the petitioner to deposit aforesaid penalty of Rs.5,000/- within a period of next 3 weeks from today, in the Court of Ld. Sessions Judge, Karnal.

12. The present petition stands disposed of with aforesaid modification.

13.05.2024*Yogesh***(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned:-
Whether reportable:-****Yes/No
Yes/No**