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**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**CRM-M-33399-2020
Decided on: 08.05.2024

Devender Singh and another

.... Petitioners

versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent: Mr. Vishal Nehra, Advocate
for the petitioner through V.C.

Mr. Rajesh Gaur, Addl. AG, Haryana.

Manjari Nehru Kaul, J. (Oral)

Instant petition has been filed under Section 482 Cr.PC for quashing the impugned order dated 17.03.2020 (Annexure P-3) vide which penalty of Rs.2,00,000/- each (Rs.4,00,000/-) was imposed upon them, being the surety of respondent No.4- Jasbir Singh without considering that respondent No.4 was unable to surrender before the Jail Authorities on expiry of his furlough on account of heart attack followed by an open heart surgery.

2. Learned counsel for the petitioners submits that the stay of respondent No.4 Jasbir Singh beyond the furlough period had already been condoned vide judgment dated 21.03.2016 (Annexure P-2), rendered by the Addl. Sessions Judge, Sonapat in terms of which even the appeal preferred by respondent No.4 Jasbir Singh was allowed. It has been further urged that once the concession for the extended period of



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furlough had already been granted to respondent No.4, who at the relevant time was lodged in the jail as a convict, imposition of penalty of surety amount upon the petitioners qua the alleged violation committed by respondent No.4 Jasbir Singh could not be sustained.

3. It is further contended that respondent No.4 after being granted three weeks' furlough on 28.10.2014 was to surrender back in the jail on 29.11.2014. However, on account of a heart attack, which he suffered on 28.10.2014 itself, he had to undergo an open heart surgery at PGIMER, Chandigarh and thus, was unable to surrender back in the jail on time. He was discharged from PGIMER, Chandigarh on 12.12.2014 in a critical condition, however, still he surrendered before the District Jail, Sonapat on 13.12.2014. Thus, it was obvious that he had been unable to surrender back after the expiry of his furlough period due to genuine reasons, beyond his control. The trial Court had committed an error in holding that since convict - Jasbir Singh had absconded, penalty be imposed upon the sureties i.e. present petitioners.

4. Learned State counsel has not been able to controvert the submissions made by the counsel for the petitioners and has also fairly conceded that respondent No.4 Jasbir Singh had indeed suffered a heart attack followed by open heart surgery. It is also undisputed that the appeal, which was preferred by respondent No.4 to impugn his conviction, was allowed subsequently by the Appellate Court and he had been acquitted by learned Addl. Session Judge, Sonapat coupled with the period beyond which respondent No.4 Jasbir Singh had over stayed his



furlough, had been condoned vide judgment dated 21.03.2016 (Annexure P-2).

5. Heard learned counsel for the parties and perused the relevant material available on record.

6. In the facts and circumstances as enumerated hereinabove, it is clear that the absence of respondent No.4 Jasbir Singh was not wilful rather it was on account of unforeseen health issues including heart attack followed by an open heart surgery at PGIMER, Chandigarh, as a result of which, he was unable to surrender back in the jail in time. It is also a matter of record that soon after he was discharged from the PGIMER, Chandigarh, he surrendered back in the District Jail on the very next day. Moreover, it is also a matter of record that respondent No.4 – Jasbir Singh already stands acquitted of the charges framed against him by the Appellate Court, Sonapat. Resultantly, the penalty imposed upon the petitioners as sureties of respondent No.4 - Jasbir Singh is unsustainable.

7. Accordingly, the present petition is allowed and the impugned order dated 17.03.2020 (Annexure P-3) is set aside.

08.05.2024
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No