

CRM-M No.43396 of 2021

2024:PHHC:013452

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.43396 of 2021
Date of Decision: 31.01.2024

JASKARAN SINGHPetitioner

Vs

STATE OF PUNJABRespondent

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Pardeep Singh Mirpur, Advocate
for the petitioners.

Mr. Gurlal Singh Dhillon, Asstt. A.G., Punjab.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 04.03.2020 (Annexure P-1) passed by ASJ/JSC/Special Judge, Bathinda vide which the penalty of Rs.50,000/- was imposed upon the petitioner being surety of accused Balwant Singh @ Banta and proceedings for recovery were set in motion against him.

[2]. In the present case, one Balwant Singh @ Banta was arrayed as an accused in FIR No.105/2018 dated 03.08.2018 registered under Sections 15, 61, 85 of NDPS Act, 1985 at Police Station Sadar Bathinda wherein he was convicted and sentenced to undergo RI for one year along with fine of Rs.5,000/- with default clause. Against the release of Balwant Singh @ Banta, petitioner stood as surety to the tune of Rs.50,000/-. However, during trial Balwant Singh @ Banta could not appear before the Trial Court and the proceedings for forfeiture of surety amount was initiated against the petitioner, resulting into passing of order dated 04.03.2020

by the ASJ/JSC/Special Judge, Bathinda and Recovery Notice dated 16.08.2021 has been issued by the Naib Tehsildar, Nathana.

[3]. While impugning the aforesaid order dated 04.03.2020 and notice dated 16.08.2021, learned counsel for the petitioner submits that though there has been default in appearance by the accused Balwant Singh @ Banta, who failed to appear before the Trial Court on the date fixed; though, the petitioner produced accused Balwant Singh @ Banta to the jurisdiction of the authorities on 17.03.2021 besides the fact that the petitioner happens to be a poor agriculturist, some leniency may be shown towards forfeiture of the surety amount.

[4]. On the other hand, learned State counsel vehemently opposed the prayer made on behalf of the petitioner while submitting that once the petitioner stood surety against release of accused Balwant Singh @ Banta, who having been failed to appear himself before the Court on the date fixed, the entire amount of surety needs to be forfeited.

[5]. I have heard learned counsel for the parties and gone through the contents of the paper book. I find substance in the submissions made on behalf of the petitioner.

[6]. Although there has been a default on the part of accused Balwant Singh @ Banta, however, the petitioner produced him before the Court on 17.03.2021 and also the fact that petitioner happens to be a poor agriculturist; some leniency needs to be shown towards the petitioner.

[7]. In the given facts and circumstances of the present case while replying upon the judgment of this Court, passed in **Raghubir and another vs. State of**

Haryana and another, 2022(1) R.C.R. (Criminal) 251 and judgment passed by the Hon’ble Apex Court in **Mohammad Kunju vs. State of Karnataka, 1994(4) R.C.R. (Criminal) 726,** the order dated 04.03.2020 passed by the ASJ/JSC/Special Judge, Bathinda (Annexure P-1) is thus, ordered to be modified to the extent that instead of Rs.50,000/- to be forfeited to the State, the amount is reduced to Rs.5,000/-. Accordingly, the petitioner is directed to deposit Rs.5,000/- within 15 days from today and in case of any default of payment of penalty within the stipulated period by the petitioner, the present petition shall be deemed to have been dismissed.

- [8]. With the aforesaid modification qua the amount of penalty as indicated above, the present petition is disposed of.
- [9]. Pending applications, if any, shall also stand disposed of accordingly.

January 31, 2024

Atik

Whether speaking/reasoned

Whether reportable

(HARKESH MANUJA)

JUDGE

Yes/No

Yes/No