

CRM-M No.56394 of 2023

2024:PHHC:007066

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CRM-M No.56394 of 2023

Date of Decision: 19.01.2024

ISHWAR AND ANOTHER

.....Petitioners

Vs

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*Present: Mr. Sunny Namdev, Advocate
for the petitioners.

Mr. Chetan Sharma, D.A.G., Haryana.

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 27.04.2022 and notice dated 28.09.2023 (Annexures P-2 & P-3) passed by respondent Nos.3 and 4 respectively, vide which the surety amount of Rs.2,00,000/- from each of the petitioners was ordered to be forfeited and proceedings for recovery were set in motion against them.

[2]. In the present case, one Sandeep was arrayed as an accused in FIR No.338 dated 02.08.2010 registered under Sections 302/307/420/212/34 IPC and Section 25 of the Arms Act, at Police Station Sampla, wherein he was convicted and sentenced for life. During pendency of the appeal, the aforesaid Sandeep was ordered to be released temporarily on parole and was supposed to surrender on 02.09.2021. Against his release, petitioners stood as sureties to the tune of Rs.2,00,000/- each. Instead of surrendering on 02.09.2021, said Sandeep

surrendered on 24.05.2022 and the proceedings for forfeiture of surety amount were initiated against the petitioners, resulting into passing of order dated 27.04.2022 by District Collector, Rohtak followed by notice dated 28.09.2023 issued by Tehsildar-cum-Assistant Collector 2nd Grade, Sampla/respondent No.4 for effecting recovery thereof.

[3]. While impugning the aforesaid order dated 27.04.2022 and notice dated 28.09.2023, learned counsel for the petitioners submits that though there has been default in appearance by the accused Sandeep, who failed to surrender himself in time; though, he himself submitted to the jurisdiction of the authorities on 24.05.2022 besides the fact that the petitioners happens to be poor agriculturists/labourers, 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 petitioners while submitting that once the petitioners stood sureties against release of accused Sandeep, who having been failed to surrender himself before the authorities in time, 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 petitioners.

[6]. Although there has been a default on the part of accused Sandeep, however, he himself having surrendered before the authorities on 24.05.2022 and also the fact that petitioners happens to be poor agriculturists/labourers; besides

petitioner No.1 being an old man of 85 years of age, some leniency needs to be shown towards the petitioners.

[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 27.04.2022 passed by the District Collector, Rohtak (Annexure P-2) is thus, ordered to be modified to the extent that instead of Rs.2,00,000/- each to be forfeited to the State, the amount is reduced to Rs.20,000/- each. Accordingly, the petitioners are directed to deposit Rs.20,000/- each within 15 days from today and in case of any default of payment of penalty within the stipulated period by the petitioners, 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 19, 2024	(HARKESH MANUJA)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No