



CRWP-1490-2019

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

CRWP-1490-2019

Date of decision: 21.05.2024

Kala Singh and Another

...Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. J.S. Lali, Advocate for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioners under Article 226/227 of the Constitution of India seeking quashing of the impugned notice dated 10.03.2017 (Annexure P-1) passed by respondent No.3-Executive Magistrate-cum-District Revenue Officer, Karnal on directions of District Magistrate, Karnal whereby the petitioners have been asked to deposit amount of Rs.2 lac each with regard to which, they submitted surety bonds in a parole case of Sahib Singh son of Bakshish Singh who was convicted and sentenced to imprisonment and was lodged in a jail in a criminal case having FIR No.95 dated 04.05.2002, Police Station Taraori, District Karnal, under Section 15 NDPS Act and quashing of order dated 08.01.2019 (Annexure P-3) passed by Naib Tehsildar-cum-Assistant Collector Gr.II, Nigdu, Karnal whereby the aforesaid surety amount of Rs.2 lac each has been ordered to be recovered as an arrears of land revenue, from



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the petitioners.

2. The brief facts of the case are that Sahib Singh son of Bakshish Singh was convicted and sentenced to imprisonment for 10 years in criminal case having FIR No.95 dated 04.05.2002, under Section 15 NDPS Act, Police Station Taroari, District Karnal by this Court in CRA-S-145-SB-2003. The Sahib Singh was granted parole for a period of 6 weeks, subject to furnishing of adequate surety bonds. Both the petitioners stood as sureties in sum of Rs.2 lac each, for Sahib Singh. The convict was released from jail on 31.07.2013, but he did not surrender on the date fixed and absconded. On this, proceedings under Section 446 Cr.P.C. were initiated against both the petitioners and consequently, impugned notice (Annexure P-1) dated 10.03.2017 and order (Annexure P-3) dated 08.01.2019 were passed to effect recovery of amount of Rs.2 lac each as an arrears of land revenue from the petitioners. Being aggrieved, the petitioners have filed the present petition.

3. The counsel for the petitioners submits that subsequently, Sahib Singh surrendered in January, 2014 and thereafter served the remaining sentence and on completion of total sentence of 10 years, he was released from jail. The counsel for the petitioners further submitted that there was no intention on the part of Sahib Singh to abscond and in the given circumstances, the impugned orders deserve to be set aside.

4. In compliance of the previous order, Amit Kumar, Superintendent, District Jail Karnal, filed his affidavit along with custody certificate (Annexure R-1) of Sahib Singh and document (Annexure R-2).

5. The State counsel while referring to custody certificate



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(Annexure R-1), has stated that Sahib Singh overstayed parole for the period from 18.09.2013 to 23.06.2014. That thereafter, Sahib Singh surrendered on 24.06.2014 and completed the entire sentence of 10 years and is already released from jail. The State counsel further submits that Sahib Singh was granted parole for a period of 6 weeks subject to furnishing of requisite surety bonds and both the petitioners stood as surety in some of Rs.2 lac each for Sahib Singh and when Sahib Singh overstayed the parole, the competent authority initiated proceedings against both the petitioners in accordance with law and the land belonging to them was attached to effect the recovery of surety amount as arrears of land revenue and that there is no illegality in (Annexure P-1 and Annexure P-3). So, prayer is made that the present petition be dismissed.

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

7. Admittedly, petitioners stood as sureties in sum of Rs.2 lac each for Sahib Singh who was convicted and sentenced to imprisonment in a criminal case having FIR No.95 dated 04.05.2002, under Section 15 NDPS Act, Police Station Taraori, District Karnal, wherein he was ordered to be released on parole for a period of 6 weeks in year 2013. Consequently, Sahib Singh was released from jail. Sahib Singh failed to surrender within a period of 6 weeks and overstayed parole till 23.06.2014 and surrendered before the jail authorities on 24.06.2014 and thereafter, completed total sentence of 10 years imposed by the trial Court in FIR No.95 dated 04.05.2002. In the light of the aforesaid mitigating circumstances and further both the petitioners

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being senior citizens, penalty of Rs.2 lacs each imposed on petitioners by the District Magistrate, Karnal 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 petitioners is reduced to the nominal amount of Rs.5,000/- each in place of Rs.2 lac each as has been directed by District Magistrate, Karnal.

10. The present petition is disposed of in aforesaid terms with direction to the petitioners to deposit aforesaid penalty of Rs.5,000/- each within a period of 2 months from today in the office of District Magistrate, Karnal. On deposit of aforesaid amount of Rs.5,000/- each by the petitioners, further, proceedings initiated by the competent authority to recover the amount of penalty as an arrears of land revenue would also stand quashed.

21.05.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No