

2025:PHHC-007239



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

CRM-M-2715-2025
Date of Decision: 18.01.2025

Baljit Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shrey Sachdeva, Advocate for
Mr. Dhruv Sihag, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of order dated 19.08.2016 (Annexure P-1) passed by the Ld. Sessions Judge, Hisar in case FIR No.338 dated 12.05.2015 under Sections 398/401 of IPC, 1860 registered at Police Station Hansi, District Hisar vide which proceedings under Section 446 Cr.P.C has been initiated against the petitioner and penalty of Rs.1,00,000/- has been imposed upon him. Further prayer has been made for setting aside the order of attachment dated 16.10.2016 (Annexure P-2).

2. Learned counsel for the petitioner argued that the petitioner stood surety for an accused Monu son of Puran, who was facing trial in FIR (supra) and had furnished bail bonds amounting to Rs.1,00,000/-. During trial, accused Monu did not appear and he was declared proclaimed offender on 19.08.2016 (Annexure P-1) and a penalty of whole amount of surety bond was imposed upon the petitioner by the Ld. Trial Court. He further submits that in

compliance of the order dated 19.08.2016, the concerned Collector issued the order of attachment (Annexure P-2) of land of the petitioner. It is also submitted that the accused-Monu has been acquitted later on by the Ld. Sessions Judge, Hisar vide judgment of acquittal dated 26.03.2018 (Annexure P-3). He further submits that petitioner is an agriculturist and if the land is attached then the petitioner has no means of earning his livelihood. Learned counsel further averred that view of the above fact, i.e. the accused has been acquitted by the Ld. trial Court, the impugned order may kindly be set aside. Reliance is placed upon the case titled as ***Sanjay Kumar Vs. State of Haryana (P&H): Law Finder Doc Id#2400851*** passed by this Court vide judgment dated 23.11.2023 passed in CRM-M-48547-2022.

3. Per contra, learned State counsel argued that the petitioner, being surety, has violated the terms and conditions which were imposed by the learned trial Court. Therefore, the recovery warrant in the sum of Rs.1,00,000/- was rightly issued against the petitioner. Further, with regard to the submission that the accused-Monu has already been acquitted by the concerned trial Court, learned State counsel does not dispute the fact.

4. Heard learned counsel for both the parties and perused the records of the case.

5. A similar issue was decided by the Hon'ble Supreme Court in ***'Mohammed Kunju v. State of Karnataka' 1999 (4) RCR (Criminal) 726*** and this Court in ***'Bhagat Singh v. State of Haryana' 2018 (2) RCR (Criminal) 337***, ***'Mohinder Singh v. The State of Punjab' 2008 (22) RCR (Criminal) 704***, ***'Angrej Singh v. State of Punjab' 2010 (4) RCR (Criminal) 580*** and ***'Gopal Kaur v. State of Punjab' 2011 (6) RCR (Criminal) 1394***, wherein, the penalty imposed under Section 446 of Cr.P.C. was reduced to 1/4th of the

amount of surety bonds by holding that the said bonds were on the higher side.

6. The petitioner had no knowledge that the convict would not appear on time and there are no allegations of collusion between the petitioner and the convict with regard to the convict not appearing on 19.08.2016.

7. Keeping in view the facts and circumstances of the case, this Court is of the opinion that the interest of justice would be served in allowing the present petition. Resultantly, the impugned order dated 19.08.2016 (Annexure P-1) and order of attachment dated 16.10.2016 (Annexure P-2) are hereby quashed.

8. The amount of penalty of Rs.1,00,000/- imposed on the petitioner is reduced to Rs.20,000/-. If the said amount of Rs.20,000/- has not been deposited or recovered from the petitioner so far, he is directed to deposit the same with the Deputy Commissioner, Hisar within a period of 03 months from today, failing which, this petition would automatically stand dismissed without any further orders.

9. Disposed of, in the aforesaid terms.

18.01.2025
Parveen kumar

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No