

2025:PHHC:061610



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

**CRA S-1318 of 2025 (O&M)
Date of Decision: 08.05.2025**

Kamal Singh		...Petitioner
	Versus	
State of Haryana and another		... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Jagjeet Beniwal, Advocate, for the appellant.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The appellant has preferred the present appeal against the impugned order dated 21.03.2025 passed by the Court of Ashish Kumar Sharma, Additional Sessions Judge, Bhiwani, whereby, the appellant has been sentenced to simple imprisonment of six months for not depositing the surety bonds amount.

2. Learned counsel for the appellant has vehemently argued that a criminal complaint No. 31/2018/2019 titled as **“Sonia Taneja Vs. Parveen Kumar”** was filed against Parveen Kumar, accused, under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') on account of dishonour of a

cheque issued by Parveen Kumar. Vide judgment and order dated 06.10.2022/07.10.2022, the Court of Judicial Magistrate Bhiwani, convicted Parveen Kumar for the offence punishable under Section 138 of the Act and sentenced him. The accused/convict, namely, Parveen Kumar had filed an appeal before the Court of Sessions Judge, Bhiwani and his sentenced suspended by the appellate Court. On request of Parveen Kumar, the appellant/accused, the present appellant agreed to stand as a surety for him and furnished the surety bonds on 22.11.2022. During the pendency of the appeal, Parveen Kumar, accused did not appear and non-bailable warrants were ordered to be issued against him on 18.01.2024. Even, notice was issued to the present appellant on 15.03.2024. The appellant was assured by Parveen Kumar that he would take care of the proceedings before the appellate Court, Bhiwani. However, Parveen Kumar did not appear before the first appellate Court and even non-bailable warrants were issued against the present appellant and he was put behind the bars on 21.03.2025. the present appellant was asked to deposit the amount of bail bonds, i.e., Rs. 1 lac, however, the appellant expressed his inability to pay the bond amount as he is a poor person. Due to the non payment of the said amount of bonds, the appellant was sentenced to simple imprisonment for a period of six months.

3. Learned counsel for the appellant further submits that while passing the impugned order, the Court of Additional Sessions Judge overlooked the mandatory provisions of Section 491 of B.N.S.S. In fact, there was no willful intention to disobey the bonds or to obstruct the course of justice. The present appellant made all possible and bonafide efforts to trace and produce the accused before the Court, however, he was unsuccessful. Moreover, the appellant was neither a habitual offender nor had any criminal intention and only stood as a surety to assist the accused, who absconded without the knowledge of the appellant. Moreover, the appellant is a poor person and had no knowledge of the procedure laid down by law and for him, an amount of Rs. 1 lac was a huge amount. Thus, he was wrongly sentenced by the appellate Court.

4. On the other hand, learned State counsel submits that the appellant has been rightly convicted by following the procedure established by law and as per the mandate of Section 491 of B.N.S.S. He further contends that the present appellant is liable to be dismissed by this Court.

5. I have heard the rival submissions made by counsel for both the parties and perused the record carefully.

6. In the present case, the appellant had admittedly failed to produce Parveen Kumar, accused, before the first appellate Court. However, being a poor person, he was unable to pay the amount of

bail bonds and pleaded guilty. He had clearly stated that he did not have the means to pay the amount of bail bonds. Thus, the appellate Court should have take a lenient view of the matter, keeping in view the financial condition of the present appellant. Moreover, in the considered opinion of the Court, the punishment imposed on the appellant was too harsh, disproportionate and warrants interference by this Court. In all cases, the Courts should impose monetary penalties or should adopt other measures. However, in the present case, the maximum punishment has been imposed on the present appellant, even though, the facts of the present case did not call for such a harsh punishment.

7. Thus, keeping in view the facts and circumstances of the present case, the sentence imposed on the appellant is reduced to the period already undergone by him, i.e., 01 month and 18 days and the appellant is ordered to be released from custody, if not, required in any other criminal case.

8. Disposed off.

9. All pending applications, if any, are disposed off, accordingly.

08.05.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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