

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

2025:PHHC:097996



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CRM-M-41377-2025 (O&M)
Date of Decision: 01.08.2025.

Tarsem Singh

...Petitioner.

Versus

State of Punjab and another

...Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Mr. Deepak Arora, Advocate for the petitioner.

SUKHVINDER KAUR, J.

Present petition has been filed under Section 482 of Cr.P.C. for quashing of order dated 17.02.2025 (Annexure P5) in SC No.94 of 2024 passed by learned Sessions Judge, Gurdaspur, pertaining to FIR No.120 dated 07.09.2023, under Sections 328, 380 and 411 IPC, registered at Police Station Shri Hargobindpur, Police District Batala, thereby imposing penalty of Rs.30,000/- upon the petitioner.

2. Brief facts relevant for the purpose of disposal of the present petition, are that the aforesaid FIR was registered against Vinay Nanda and Shalu Nanda on the statement of complainant/ respondent No.2-Kulwant Kaur. The present petitioner stood surety for accused Vinay Nanda, who was granted bail by the trial Court. During pendency of the case before the

trial Court, accused Vinay Nanda, who was on bail and for whom the petitioner had furnished surety bonds of Rs.50,000/-, became absent before the trial Court on 01.10.2024. The bail bonds of accused Vinay Nanda were forfeited to the State and his bail was cancelled. He was ordered to be summoned through warrants of arrest alongwith notice to his surety. Thereafter, when presence of Vinay Nanda could not be procured through nonailable warrants of arrest, the learned trial Court initiated the P.O. Proceedings against the said accused, as per order dated 25.10.2024. Vide order dated 11.12.2024 of trial Court, Vinay Nanda was declared proclaimed person and notice issued to the petitioner Tarsem Singh was received back with the report that he was not available at his house, so fresh notice be issued to him.

3. Learned trial Court, on 17.02.2025 (Anneuxre P5) has passed the following order:-

“Notice issued to surety Tarsem Singh son of Dhian Singh, who had furnished the surety bond for release of accused Vinay Nanda, received back with the report that when the serving official went to his house, he was not available at the house and his son told that his father has gone to get medicine as he was not feeling well for the last 2-3 days. Since no body had accepted the notice, therefore, copy of the notice was left at his house. Statement of Baba Parveen Kumari, Municipal Councilor, Ward No.15, Dinanagar has also been sent alongwith the said report.

It is made out that surety Tarsem Singh has been duly served but he has not appeared. He had furnished the surety bond of Rs.50,000/- for release of accused Vinay Nanda on bail. Accused Vinay Nanda had absented from the proceedings and has been declared proclaimed person. Under these circumstances, it is made out that surety Tarsem Singh has

intentionally not appeared despite service of the notice upon him. He has nothing to say in the matter. Keeping in view the entire facts and circumstances, a penalty of Rs.30,000/- is imposed upon surety Tarsem Singh. Reader is directed to initiate recovery proceedings.”

4. Aggrieved against the said order, the petitioner has filed the present petition.

5. Learned counsel for the petitioner has contended that the petitioner had no knowledge and intimation about the notice as at that time he was not available in his house. So, it was wrongly recorded by the trial Court that the petitioner had been duly served and even did not provide any rightful opportunity of hearing to defend himself. He has been wrongly penalized for an amount of Rs.30,000/-. While relying upon the judgment of Hon'ble Apex Court in **Ghulam Mehdi Vs. State of Rajasthan, AIR 1960 S.C. 1185**, learned counsel for the petitioner has contended that in the present case, the petitioner was not called upon to show cause why the penalty should not be paid and he was penalized unheard. So, order dated 17.02.2025 (Annexure P5) is liable to be set aside being illegal, void and without any jurisdiction.

6. I have heard learned counsel for the petitioner at considerable length and have gone through the material placed on record.

7. It is borne from the record that the petitioner had stood surety for accused Vinay Nanda, who absented before the trial Court during pendency of the trial and when his presence could not be procured, he was declared as a proclaimed person. Notice was sent to the petitioner Tarsem Singh being surety of Vinay Nanda to show cause as to why the amount of surety bonds be not recovered from him. Perusal of order dated 17.02.2025

reveals that it has been observed by the trial Court that as per report of serving official, who went to the house of the petitioner, he was not available at the house and his son told that his father had gone to get medicine as he was not feeling well for the last 2-3 days. Since nobody had accepted the notice, therefore, copy of the notice was left at his house. Statement of Baba Parveen Kumari, Municipal Councilor, Ward No.15, Dinanagar was also sent along with the said report. The trial Court further observed that surety Tarsem Singh had been duly served but he had not appeared. He had furnished the surety bonds of Rs.50,000/- for release of accused Vinay Nanda on bail. Accused Vinay Nanda had absented from the proceedings and had been declared proclaimed person. Under these circumstances, it was made out that surety Tarsem Singh had intentionally not appeared despite service of the notice upon him. He had nothing to say in the matter and penalty of Rs.30,000/- was imposed upon the petitioner being surety.

8. Relevant paragraph No.3 of the judgment of Hon'ble Apex Court in **Ghulam Mehdi Vs. State of Rajasthan, AIR 1960 S.C. 1185**, is reproduced as under:-

*“On February 13, 1952 notice was issued to the appellant to show cause why his bond be not forfeited and amount not recovered from him. Head Constable Ramchander was given the process to be served upon him but it could not be served. Then Head Constable Bhairon Lal was directed to effect service but evidently he also did not or could not serve him nor was notice affixed on the door of his residence nor, given to any one of his relatives as required under **Sections 70 and 71**, Criminal Procedure Code. On February 26, the Public Prosecutor made an application to the Sub-Divisional*

Magistrate who without notice to the appellant ordered his properties to be attached. The appellant thereupon filed an appeal under [Section 515](#) of the Criminal Procedure Code in the Court of the District Magistrate, Bharatpur and raised various objections as to the legality of the order of forfeiture but the appeal was dismissed and he took a revision in the High Court and the High Court upheld the order of forfeiture and in regard to the notice under [Section 514 \(1\)](#) Criminal Procedure Code, it held that although no notice had been given, yet no useful purpose would have been served even if the notice had been given when "they have expressed their inability to abide by the terms of the surety bond for the reason that the accused had absconded and had taken shelter in a foreign country i.e., Pakistan. Under these circumstances this point cannot be availed of in favour of the petitioners". Thereupon the appellant made an application under [Article 134\(1\)\(c\)](#) and raised the following two points on which the certificate was granted:-

(1) The bond was vague inasmuch as it was not specified as to in which Court and at what place the accused Salamat Ali was to be produced and

(2) no notice was served on the applicant under [Section 514](#) of the Code of Criminal Procedure.

It is not necessary to go into the first point as in our opinion unless notice is given to the surety under [Section 514 \(1\)](#) to show cause why the surety bond be not paid no proceedings for recovery under [Section 514](#) can be taken.

[Section 514 \(1\) & \(2\)](#) is as follows:

[Section 514. \(1\)](#) "Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class, or, when the bond is for appearance before a Court, to the satisfaction of such Court, that such bond has been forfeited, the Court shall record the grounds of such proof, and

may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

Section 514. (2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead."

This provision shows that before a surety becomes liable to pay the amount of the bond forfeited it is necessary to give notice why the amount should not be paid and if he fails to show sufficient cause only then can the Court proceed to recover the money. In the present case the appellant was not called upon to show cause why the penalty should not be paid. Before a man can be penalised forms of law have to be observed and an opportunity has to be given to a surety to show cause why he should not be made to pay and as in this case that was not done, proceedings cannot be said to be in accordance with law and should therefore be quashed."

9. Now adverting to the present case, as it is evident from order dated 17.02.2025 of learned trial Court, when the serving official went to the house of the petitioner for serving the notice to the petitioner he was not available at his house and the serving official was told by son of the petitioner that the petitioner had gone to take medicine being unwell. Serving official left the notice at the house of the petitioner. It shows that neither the notice was served upon the petitioner nor it was affixed at the door. So, in these circumstances, it cannot be said that the notice had been served upon the petitioner and as such the impugned order dated 17.02.2025 was passed without providing any rightful opportunity of hearing to the petitioner. By erroneously recording the absence of the petitioner despite notice, the learned trial Court penalized him for an amount of Rs.30,000/-, which is not sustainable in law. Subsequently, impugned order dated

17.02.2025 passed by learned trial Court is hereby set aside and the matter be remanded back to the trial Court to decide the proceedings under Section 446 of Cr.P.C. as per law after issuing afresh notice to the petitioner.

10. Present petition stands allowed in the aforesaid terms.
11. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

01.08.2025.

Komal

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