



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

CRA-S-4200-2024

Date of decision: 06.02.2025

Sanjay Kumar

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ram Avtar Sheoran, Advocate for the appellant.

KARAMJIT SINGH, J. (ORAL)

1. The instant appeal has been preferred against the impugned order dated 30.07.2024, passed by the Court of Additional Sessions Judge, Bhiwani whereby the appellant who stood surety for accused Fateh Singh, is directed to pay penalty of Rs.1 lac with further direction that the same be recovered as an arrears of land revenue by the Collector concerned.

2. Notice of motion.

3. Mr. Arjun Lakhanpal, Addl. A.G. Haryana, accepts notice on behalf of the State and filed status report by way of an affidavit of Dalip Singh, Deputy Superintendent of Police, Tosham, Bhiwani which is taken on record.

4. The brief facts of the case are that one Fateh Singh was convicted by the trial Court in a criminal case having FIR No.199 dated 19.05.2014 under Sections 279, 337, 338 IPC of Police Station Tosham vide judgment and order dated 28/29.08.2018 by the trial Court. Fateh Singh preferred an appeal against the said judgment and order wherein the appellant stood as surety in sum of Rs.1 lac for Fateh Singh. During the pendency of the appeal, Fateh Singh got absented on 09.07.2024. On this, the appellate Court concerned issued notice to the appellant under Section 446 Cr.P.C and also issued non bailable warrants of arrest against Fateh Singh. However, the present appellant failed to appear in response to notice issued to him under Section 446 Cr.P.C.



On this, the appellate Court concerned passed order dated 30.07.2024 whereby penalty of Rs.1 lac has been imposed on the appellant.

5. The counsel appearing on behalf of the appellant submits that subsequently, Fateh Singh surrendered in the appellate Court on 20.08.2024 and was sent to judicial custody and on 21.08.2024, the main appeal was dismissed by the appellate Court and Fateh Singh was directed to serve the sentence imposed by the trial Court and as such, sent to jail. Fateh Singh filed criminal revision petition against the judgments passed by the trial Court and the appellate Court whereby he was convicted. During the pendency of the criminal revision petition, this Court suspended his sentence vide separate order. The counsel for the appellant further submits that in the given circumstances, the impugned order is not sustainable.

6. The State counsel on instructions from SI Amarjit Singh has admitted that after the passing of impugned order dated 30.07.2024, Fateh Singh surrendered before the appellate Court and was sent to judicial custody and thereafter, the appeal filed by Fateh Singh was dismissed and he was sent to jail to serve the sentence imposed by the trial Court. The State counsel further submits that Fateh Singh filed criminal revision petition against the judgments of conviction and in the said revision petition, this Court suspended sentence of Fateh Singh.

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

8. Undoubtedly, appellant stood as surety on behalf of Fateh Singh in aforesaid appeal filed by him against the judgment and order of conviction and sentence dated 28/29.08.2018 passed by the Court of Sub Divisional Judicial Magistrate, Tosham. However, Fateh Singh jumped bail in the appeal which resulted into passing of impugned order dated 30.07.2024. It has been also not disputed that subsequently, Fateh Singh surrendered before the appellate Court concerned and finally, his appeal was dismissed and he was sent to jail to serve sentence. The sentence of Fateh Singh was suspended by this Court in the criminal revision petition filed by him against the judgment of conviction and order of sentence.

9. The object of the proceedings initiated by the appellate Court



under Section 446 Cr.P.C was to procure the presence of Fateh Singh, so as to dispose of the criminal appeal at the earliest. The State counsel has not disputed the fact that subsequently, Fateh Singh surrendered and was taken into custody and even on the dismissal of appeal filed by Fateh Singh, he was sent to jail to serve sentence and later on, his sentence was suspended by this Court in a criminal revision petition filed by Fateh Singh. In the light of the aforesaid mitigating circumstance, penalty of Rs.1 lac imposed on appellant by the Court of Additional Sessions Judge, Bhiwani requires to be reduced being excessive and thus, deserves to be modified.

10. 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 aforesaid penalty is reduced to certain nominal amount.

11. For the foregoing reasons, the present petition is allowed to the extent that the amount of penalty to be deposited by the appellant is reduced to the nominal amount of Rs.10000/- in place of Rs.1 lac, as was directed by the Court of Additional Sessions Judge, Bhiwani.

12. The present petition is disposed of in aforesaid terms with direction to the appellant to deposit aforesaid penalty of Rs.10000/- within a period of next 6 weeks from today, in the Court of Additional Sessions Judge concerned.

06.02.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No