



120

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

CRM-M-64803-2024

Date of decision: 07.01.2025

Dheera

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Deepak Vashishth, Advocate
for the petitioner.

Mr. Pankaj Midha, Addl.A.G., Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking setting aside of impugned order dated 07.11.2024 (Annexure P-4) passed by the learned Sessions Judge, Jind, whereby, penalty of Rs.80,000/- under Section 446 Cr.P.C. had been ordered against the petitioner.

2. Learned counsel for the petitioner argued that the petitioner stood surety for an accused-Arun who was facing conviction in FIR No.97 dated 26.06.2019 under Sections 397/201 of IPC and Section 25 of Arms Act registered at Police Station Garhi, District Jind. He further submits that Arun was released on regular bail vide order dated 21.08.2020 (Annexure P-2) passed by the learned Additional Sessions Judge, Jind, on furnishing surety bonds to the tune of Rs.80,000/- by the petitioner and on 23.07.2024, on account of his non appearance, his bail was cancelled and his bail bonds were forfeited to the State and notice to his surety under Section 446 of Cr.P.C. was also issued and due to the non appearance of the petitioner, a penalty of



CRM-M-64803-2024

-2-

Rs.80,000/- is imposed upon him in lieu of surety bond furnished by him. Further, recovery warrant in terms of Section 421 of Cr.P.C. was also issued against the petitioner through Collector, Jind for realization of penalty amount from his movable and immovable assets. It is further submitted that the petitioner-Dheera is a retired old aged man depending upon his pension. He has also provided the documents of his agricultural land before the Court below to prove that the same is in the possession of his two sons and he is not in a capacity to pay the amount of penalty.

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

4. The learned State counsel appears on receipt of advance notice and could not dispute the factual position.

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

6. The accused, namely, Arun was arrested in the FIR (*supra*) and joined investigation and thereafter was granted bail by the learned Additional Sessions Judge, Jind. The petitioner is a far relative of the accused and under the influence of family, he was asked to appear before the learned Court below to furnish surety for the accused-Arun. The petitioner had no knowledge that

**CRM-M-64803-2024****-3-**

the accused would not appear before the trial Court and there is no allegation of connivance of the petitioner with the accused in not putting in appearance.

7. Keeping in view the facts and circumstances of the case, this Court is of the opinion that petitioner-Dheera is an old man and depending upon his pension only and his agricultural land is also in possession with his two sons, the present petition is allowed and the impugned order dated 07.11.2024 (Annexure P-4) is hereby set aside.

8. The amount of penalty of Rs.80,000/- is reduced to Rs.20,000/- and the petitioner is directed to deposit the same with the District Magistrate, Jind, within a period of 03 months from today, failing which, this petition would automatically stand dismissed without any further orders.

(HARPREET SINGH BRAR)
JUDGE

07.01.2025*Neha*

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