

2025:PHHC:001055



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

CRA S-4284-2024

Date of Decision: 07.01.2025

Smt. Reena and another		...Petitioners
	Versus	
State of Haryana and others		... Respondents

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

Present : Mr. A.K. Sharma (Bhana), Advocate
for the petitioners.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner had initially filed the present appeal against the impugned order dated 05.06.2024 passed by the Deputy Commissioner, Jind. However, during the course of arguments, he had fairly conceded that the present petition in the form of appeal is not maintainable before this Court and the present petition may be ordered to be treated as a criminal miscellaneous petition under Section 482 Cr.P.C. The prayer is accepted by this Court and the present petition is treated as criminal miscellaneous petition under Section 482 of the Code of the Criminal Procedure and the Registry of the Court is directed to assign a new number to the present petition.

2. The petitioners have filed the present petition against the impugned order dated 05.06.2024 passed by the Court of Mohd. Imraj Rja, Deputy Commissioner, Jind, whereby, the amount of Rs. 2,00,000/- each was ordered to be forfeited to the State and it was further ordered that the amount may be recovered from the petitioners as arrears of land revenue.

2. Learned counsel for the petitioners contends that a convict namely Raju was confined in District Jail, Gurugram, who was granted regular parole for a period of 10 weeks by the District Magistrate, Jind vide order dated 13.03.2024. While granting the concession of parole, both the petitioners stood sureties for Raju, convict. While granting the parole, he was directed to maintain peace in the village and was not allowed to go to any other place except his place of residence. However, the convict went to other place and caused injuries to Balbir son of Deva Ram resident of village Dhamtan Sahib and, accordingly, one FIR No. 63 dated 08.04.2024 under Sections 147, 149, 323, 506 and 285 IPC and Arms Act was ordered to be registered against him in Police Station Garhi (Jind). Ultimately, Raju, convict was arrested by the police and was sent in judicial custody on 09.04.2024, which requires mention that at that time also, he was continuing on parole and the period of parole had not expired. Thus, he was arrested by the police before the expiry of his parole period.

3. Learned counsel for the petitioners contends that vide the impugned order, the huge amounts of Rs. 2 lacs each has been ordered to be forfeited to the State and the amount has been ordered to be recovered as arrears of land revenue. Consequently, now the recovery proceedings have been initiated against both the petitioners. Learned counsel further contends that there is nothing on record to suggest that the petitioners had ever helped Raju, convict in violating the conditions of the parole. There is no material on record to prove that the petitioners had either participated or abetted the commission of the offences, for which, FIR No. 63 dated 08.04.2024 under Sections 147, 149, 323, 506 and 285 IPC and Arms Act, Police Station Garhi (Jind) was registered against him. Rather the petitioners had always advised him to maintain peace and not to visit any other place except his place of residence.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioners and submitted that Raju, convict, had not only visited some other place but also caused injuries to Balbir son of Deva Ram and one FIR No. 63 dated 08.04.2024 under Sections 147, 149, 323, 506 and 285 IPC and Arms Act was ordered to be registered against him. Thus, while on parole, he had committed the offence and did not maintain peace in the area. Thus, the convict had violated the conditions of parole and the impugned order is liable to be upheld by this Court.

5 I have heard learned counsel for the parties and perused
the record.

6. The Hon'ble Supreme Court has held in the matter of
Mohammaed Kunju Vs. State of Karnataka, 1994 (4) RCR
(Criminal) 726 as follows:-

“14. We have noticed that the wording in the corresponding Form in the new Code is Identical (vide Crl. Misc. No. M-15296 of 2012 Form No. 45 in the second Schedule to the Code) and hence the same principle must follow in the present case also. Thus forfeiture of a bond would entail the penalty against each surety for the amount which he has undertaken in the bond executed by him. Both the sureties cannot claim to share the amount by half and half as each can be made liable to pay the amount of L 25,000.

*15. Lastly, learned counsel made a plea for remission of the penalty. No doubt Section 446(3) of the Code empowers the court to grant such remission. It is within the discretion of the court to grant remission and to decide the extent of the remission. Such a discretion must be exercised judicially and for good reasons. Learned counsel cited the decisions of this Court in ***Madhu Limaye v. Metropolitan Magistrate and Ors., [1984] Suppl. SCC 699***, A three Judge Bench of this Court considered the plea advanced by a surety who was proceeded against as the accused-some foreign nationals-escaped from India. They were students charged with offences of "trivial nature" in 16 cases altogether. This Court held that in such circumstances "the ends of justice will be met by imposing a token*

penalty of L 100". In the present case, though the offences charged against the foreign national are not trivial they are nevertheless not very serious comparatively. The accused slipped out of the country without anybody's knowledge and thereby rendered himself beyond the reach of the appellant. The court could have imposed the condition to surrender his passport as a measure to prevent him to escape out of India. There is no allegation that the appellant had any remote scent that the accused was preparing to escape from India, nor that he had connived with the accused jumping out the bail."

7. Adverting to the facts of the present case, it is apparent from the impugned order passed by the District Magistrate, Jind, that there is no allegations against the petitioners that they had instigated or helped the convict in any manner in commission of the crime, which was the subject matter of the FIR No. 63 dated 08.04.2024 under Sections 147, 149, 323, 506 and 285 IPC and Arms Act registered at Police Station Garhi (Jind). Once any such allegations are completely missing, the impugned order cannot be sustained in law. Thus, in the totality of the facts and circumstances of the present case, coupled with the reasons aforementioned and to secure the ends of justice, the impugned order dated 05.06.2024 passed by the Deputy Commissioner Jind is ordered to be modified to the extent that the amount of Rs. 2 lacs each is reduced to Rs. 20,000/- each, i.e., each petitioner would be liable to pay a sum of Rs. 20,000/- to the State. Thus, the petition is partly allowed and the impugned order dated

05.06.2024 passed by the Deputy Commissioner Jind is modified to that an extent.

07.01.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No