

2026.PHHC:045457



151

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

**CWP-39415-2025 (O&M)
Date of Decision: 15.01.2026**

Dharmender

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Virender Soni, Advocate
for the petitioner.

Mr. Pankaj Mulwani, Sr. DAG, Haryana.

HARSH BUNGER J. (ORAL)

The present Civil Writ Petition has been filed under Articles 226/227 of the Constitution of India seeking the issuance of a writ in the nature of Certiorari for quashing/setting aside the impugned order dated 01.03.2023 (Annexure P-3) passed by learned District Magistrate, Rohtak whereby the surety amount of ₹2,00,000/- each furnished by one Sh. Hitender and the present petitioner (Dharmender) has been ordered to be forfeited.

2. Brief facts of the present case are that one Sumit, son of Subhash, was undergoing life imprisonment in District Jail, Rohtak, in connection with FIR No. 174 dated 18.03.2016, registered under Sections

148, 149, 302, 307 IPC and Section 25 of the Arms Act. The said convict was released on furlough for a period of three weeks on 31.01.2020. At the time of his release, the petitioner Dharamender, along with one Hitender, stood surety for him and furnished surety bonds in the sum of ₹2,00,000/- each. As per the terms and conditions of the furlough, the convict was required to surrender before the District Jail, Rohtak, on 22.02.2020. However, he failed to surrender within the stipulated period. Consequently, FIR No. 66 dated 03.03.2020 was registered at Police Station Sadar, Rohtak, under Sections 8 and 9 of the Haryana Good Conduct Prisoners Act, 1988. The convict was thereafter apprehended by the local police on 12.03.2020 and produced before the jail authorities. Subsequently, upon trial, the accused was held guilty for the offence punishable under Section 9 of the Haryana Good Conduct Prisoners Act, 1988, and was convicted and sentenced by the learned Additional Chief Judicial Magistrate, Rohtak, vide judgment dated 02.11.2021 (Annexure P-1), to the period already undergone in judicial custody along with a fine of ₹500/-.

2.1. Thereafter, respondent No. 2, vide impugned order dated 01.03.2023 (Annexure P-3), ordered forfeiture of the entire surety amount of ₹2,00,000/- each furnished by the sureties. The sureties were further directed to deposit the forfeited amount within a period of 30 days in the District Jail, Rohtak, failing which the same was ordered to be recovered as arrears of land revenue.

3. In the aforementioned circumstances, the present writ petition has been filed before this Court for seeking relief as noticed hereinabove.

4. Learned counsel for the petitioner *inter alia* contends that the

petitioner is a law-abiding citizen. He submits that the petitioner acted with extreme diligence and provided active assistance to the police officials to ensure the re-arrest of the convict. It is further contended that the petitioner shared WhatsApp screenshots and location details of the convict with the police, which directly led to the arrest of convict. He argues that the impugned order is harsh and unjust as it penalizes the petitioner, who had assisted police in arresting the convict. He further points out that no direction for forfeiture was passed by the trial court while sentencing the convict for the jumping furlough. It is further argued that a perusal of the impugned order shows that there is no allegation or finding that the petitioner acted in collusion with the convict or had instigated him not to surrender.

4.1 Learned counsel for the Petitioner further submits that a penalty of Rs. 2,00,000/- imposed upon the petitioner, is excessive and, therefore, to meet the ends of justice, a remission may be granted, as he was not having an idea that the convict will jump the bail. In support of his contention, he has relied upon the decision of the Hon'ble Supreme Court in ***Mohammed Kunju v. State of Karnataka, 1999(4) Recent Criminal Reports 726 (SC)***.

5. Mr. Pankaj Mulwani, Sr. DAG, Haryana, who is present in the Court, opposes the prayer made by the petitioner on the ground that the petitioner stood surety of accused-Sumit, as such, it is the duty of the petitioner to produce the convict in the Court. Thus, the learned District Magistrate, Rohtak, has rightly imposed the penalty of Rs. 2,00,000/- upon the petitioner and he does not deserve any leniency.

6. Heard

7. Here it would be apposite to refer to Section 446 (3) Cr.P.C., which reads as under:

"(3) The Court may after recording its reasons for doing so, remit any portion of the penalty mentioned and enforce payment in part only."

7.1 Similarly, section 491(3) of the Bharatiya Nagarik Suraksha Sanhita (in short "**BNSS**"), 2023, provides as under:-

"(3) The Court may, after recording its reasons for doing so, remit any portion of the penalty mentioned and enforce payment in part only."

8. In **Rajpal v. State of U.P., 2009 Cr.L.J. 160**, it has been held that "where the sureties have produced the accused before the Court, a lenient view may be taken in matter of recovery of surety amount."

8.1 In **Jamila Khader v. State of Kerala, 2004 CriLJ 3389 (Kerala)**, it has been held that "the Appellate or Revisional Court, as the case may be, can always consider, even at a later stage, where there are circumstances warranting remission of penalty."

8.2 In **Mohammed Kunju v. State of Karnataka, 1999(4) Recent Criminal Reports 726 (SC)**, "the surety amount of Rs. 25,000/- was remitted to Rs.5,000/- only i.e. 1/5th of the total amount".

9. Coming to the case in hand, apparently the petitioner had no knowledge that the convict would not surrender on time. Further there are no allegations of collusion between the petitioner and the convict-Sumit with regard to the convict not surrendering on time.

10. Considering the overall facts and circumstances, this Court is of the considered opinion that the ends of justice would be met, if the penalty imposed upon the petitioner is reduced to Rs. 1,00,000/- from Rs. 2,00,000/-. Consequently, the order dated 01.03.2023 (Annexure P-3)

passed by the learned District Magistrate, Rohtak is modified to the extent that instead of depositing Rs. 2,00,000/-, the petitioner shall pay Rs.1,00,000/- within a period of four months from today, failing which, this petition would automatically stand dismissed without any reference to this court.

10.1 In case of compliance of this order (as indicated above), proceedings under Section 446 Cr.P.C. or section 491 BNSS; would be terminated by the Court/Authority below by passing a speaking order.

10.2 Let a copy of this order be transmitted to the Court/Authority below for compliance and necessary action.

11. With the aforesaid observations, the instant writ petition stands disposed of.

12. All pending applications (if any), shall also stand closed.

15.01.2026

Pd

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No