



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

316

CRM-M-23119-2026 (O&M)

Date of decision : 6th August, 2026

Shamsher Singh and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Dharamvir Sharma, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of the order dated 23.02.2022, passed by the District Magistrate, Rohtak, whereby the surety amount of Rs.2,00,000/- furnished by each of the petitioners in respect of parole granted to convict Sandeep was ordered to be forfeited, along with all consequential proceedings arising therefrom.

2. Briefly stated, facts of the case are that convict Sandeep, who was undergoing sentence in FIR No.350 of 2014 under Sections 506, 376-D and 366 of IPC, was granted parole for a period of three weeks vide order dated 06.04.2020 to enable him to meet his family members. For his temporary release, the present petitioners furnished surety bonds of Rs.2,00,000/- each before the competent authority. The parole warrant had stipulated, *inter alia*, that the prisoner would maintain peace, observe the conditions of release and



surrender before the Jail authorities on expiry of the parole period. However, during the period of parole, the said convict allegedly got involved in another criminal case and FIR No.99 dated 26.05.2020 was registered against him under Sections 148, 149, 323, 302, 506 and 120-B IPC and Section 25 of the Arms Act at Police Station Bahu Akbarpur, District Rohtak. The Jail Superintendent informed the District Magistrate that the convict had violated the conditions of parole by indulging in criminal activities during his temporary release and requested initiation of proceedings under Section 10(2)(c) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988. Pursuant thereto, show cause notices were issued to the petitioners. After considering the matter, the District Magistrate, Rohtak passed the impugned order dated 23.02.2022 forfeiting the surety amount of Rs.2,00,000/- furnished by each of the petitioners and directed its recovery. Consequential, recovery proceedings were also initiated. Aggrieved from the same, the present petition has been filed.

3. It is argued by learned counsel for the petitioners that the impugned order dated 23.02.2022 is not sustainable in the eyes of law as the same has been passed mechanically and without proper application of mind. It is argued that no meaningful inquiry, as contemplated under law, was conducted before directing forfeiture of the surety bonds and no finding has been recorded that the petitioners had wilfully breached any condition of the bond. It is further argued that mere registration of FIR No.99 dated 26.05.2020 against the said convict cannot result in forfeiture of the surety amount, particularly when the allegations contained therein are yet to be adjudicated by a competent Court. Learned counsel has further argued that the liability of a



surety is limited in nature and cannot extend to controlling or supervising the personal conduct of the parolee during the period of parole. The primary object of obtaining surety was to ensure the presence of the prisoner before the authorities and, in the present case, the prisoner had already been taken into custody during the parole period itself. Consequently, the very object of furnishing surety stood substantially fulfilled and the petitioners cannot be penalised for acts allegedly committed by the parolee beyond their control. It is further submitted that the coercive recovery proceedings, including issuance of proclamation for sale of the petitioners' property, have been initiated in a wholly mechanical manner without proper adjudication of their liability, thereby causing grave prejudice to them. With these broad submissions, it is urged that the petition deserves to be allowed and the impugned order is liable to be set aside.

4. Reply has been filed by the respondent-State. Learned State counsel has argued that the impugned order has been passed strictly in accordance with the provisions of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 and the Rules framed thereunder. The abovenamed convict had indulged in another case during his parole period. Such conduct amounted to a clear violation of the conditions of parole. After receipt of the report from the Jail authorities, show cause notices were duly issued to the petitioners and, after affording them an opportunity of hearing, the District Magistrate passed the order dated 23.02.2022 directing forfeiture of the surety amount. Thus, the procedure prescribed under law was duly followed and there has been no violation of the principles of natural justice. Hence, it is urged that the petition is devoid of any merit and is liable to be



dismissed.

5. This Court has heard the rival submissions.

6. The short question which arises for consideration is whether, in the facts and circumstances of the present case, the District Magistrate was justified in directing forfeiture of the entire surety amount of Rs.2,00,000/- furnished by each of the petitioners merely on account of the allegation that the parolee had violated the conditions of his temporary release by allegedly involving himself in another criminal case? There can be no dispute with the proposition that a surety bond executed under the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 is not an empty formality. Once a person voluntarily undertakes the obligation of standing surety for the temporary release of a prisoner, he subjects himself to the statutory consequences flowing from breach of the conditions of such release. Therefore, the mere fact that the petitioners were not personally involved in the alleged criminal occurrence would not completely absolve them from the liability arising under the bond executed by them.

7. The extent of the liability of a surety and the discretion of the Court while enforcing such liability came up for consideration before the Hon'ble Supreme Court in ***Mohammed Kunju v. State of Karnataka, (1999) 8 SCC 660***, wherein while relying upon the earlier decision in ***Ram Lal v. State of U.P., AIR 1979 Supreme Court 1498***, it was held that the undertaking furnished by a surety is independent in nature and is enforceable according to the terms of the bond. It was further observed that where the bond stands forfeited, the competent Court or authority is not bound to recover the entire amount in every case and possesses the discretion to remit or reduce the



penalty depending upon the facts and circumstances of the case. Such discretion, however, is required to be exercised judicially and on sound principles. The ratio of the aforesaid judgment clearly indicates that while forfeiture of the bond may legally follow from the breach of its conditions, the quantum of penalty cannot be imposed mechanically. Before directing recovery of the entire amount, the authority is required to examine whether the sureties themselves were guilty of any deliberate default, negligence or connivance in the breach committed by the person for whom they had stood surety. In the absence of such circumstances, recovery of the entire bond amount may not always meet the ends of justice.

8. In the present case, the impugned order proceeds primarily on the premise that the parolee allegedly involved himself in another criminal case during the period of parole. However, the order does not record any finding that the present petitioners had either facilitated such conduct, had knowledge of the alleged criminal activity, or had in any manner connived with the parolee in violating the conditions of parole. There is equally no finding that the petitioners had intentionally failed to discharge any obligation undertaken by them under the surety bonds.

9. It is true that a surety cannot completely escape the consequences flowing from breach of the conditions of the bond merely because the wrongful act was committed by the parolee himself. At the same time, it cannot be overlooked that a surety is not expected to exercise continuous physical control or surveillance over the movements of an adult parolee. Once the authority itself grants temporary release, the surety can only reasonably ensure compliance to the extent possible. Therefore, unless the facts disclose



wilful negligence or active connivance on the part of the sureties, forfeiture of the entire bond amount would not be consistent with the principle of proportionality governing the exercise of such power.

10. A perusal of the impugned order further reveals that while directing forfeiture of the entire amount of Rs.2,00,000/- from each petitioner, the District Magistrate has not assigned any reasons as to why recovery of the maximum amount was considered necessary. The order does not reflect any consideration of the conduct of the petitioners, the absence of any allegation of connivance, or any other mitigating circumstance relevant for determining the extent of liability. The discretion vested in the authority with respect to the quantum of forfeiture was required to be exercised on objective considerations and not in a routine or mechanical manner.

11. In view of the discussion as made above, this Court is of the considered opinion that although the competent authority was justified in initiating proceedings consequent upon the breach of the conditions of parole, forfeiture of the entire surety amount of Rs.2,00,000/- furnished by each petitioner is unduly harsh and disproportionate. Hence, following the principles laid down by the Hon'ble Supreme Court in ***Mohammed Kunju'*** ***case (supra)***, this Court is of the view that the ends of justice would be adequately served if the liability of each petitioner is confined to Rs.50,000/- instead of Rs.2,00,000/-. Consequently, the present petition is ***partly*** allowed. The impugned order dated 23.02.2022 is modified to the extent that the amount recoverable from each of the petitioners shall stand reduced from Rs.2,00,000/- to Rs.50,000/-. If any amount in excess of Rs.50,000/- has already been recovered from either of the petitioners, the same shall be



refunded to them in accordance with law within a period of eight weeks from the date of receipt of a certified copy of this order.

6th August, 2026
Parveen Sharma

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>