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AT CHANDIGARH**

**CRM-20412-2025 in/and  
CRA-S-1672-2025 (O & M)  
Date of decision: 19.05.2025**

**RAJESH**

**...APPELLANT**

**V/S**

**STATE OF HARYANA**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Ms. Sanchi Choudhary, Advocate for the appellant.

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**HARPREET SINGH BRAR, J. (ORAL)**

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This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 120 days in filing the main appeal.

For the reasons mentioned in the application, the same is allowed.

Delay of 120 days in filing the main appeal is condoned.

**MAIN CASE**

1. This second appeal has been filed against the order dated 14.11.2024 passed by Collector, Hisar, vide which direction was issued to Tehsildar, Hisar to recover the amount of Rs.1 lakh from the surety/appellant, arising out of the order dated 01.10.2024 passed by learned Additional Sessions Judge, Hisar, in a case bearing CIS No.CRA/8/2018 titled as '*Kuldeep Kumar Vs. Parveen Dhanda*', vide which liberty was granted to the Collector, Hisar to recover the surety amount from the surety-appellant. The earlier appeal was dismissed as withdrawn vide order dated 24.04.2025 passed



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by this Court and liberty was granted to file fresh petition after laying challenge to the impugned order passed by Assistant Collector.

2. Brief facts of the present case are that the appellant had furnished surety bonds for a sum of Rs.1,00,000/- for bail of accused-Kuldeep Kumar, however, accused-Kuldeep Kumar absented on 16.03.2020 from the Court, but was arrested by the police and produced before the Court on 11.12.2023. Thereafter, on 08.08.2024, accused-Kuldeep Kumar again absented and his bail bonds were cancelled and forfeited to the State. Due to which, notices to accused as well as his surety i.e. appellant were issued. Thereafter on 01.10.2024, the lower Appellate Court dismissed the appeal filed by the accused-Kuldeep Kumar, in his absence and uphold his conviction by giving liberty to the Collector, Hisar to recover the surety amount from the appellant/surety. Thereafter, the Collector, Hisar vide order dated 14.11.2024 directed the Tehsildar, Hisar to recover an amount of Rs.1 lakh from the appellant/surety and ordered him to deposit the same in Tehsil Office. Hence, the appeal.

3. Learned counsel for the appellant *inter alia* contends that the surety bond furnished by the appellant has been wrongly forfeited by the learned trial Court, making him liable to pay Rs.1 lakh. He further contends that the learned trial Court has erred in giving liberty to the Collector, Hisar to recover the surety amount from the appellant/surety as the appellant was not given proper opportunity to explain his position for non-appearance pursuant to the notice issued under Section 446 Cr.P.C. Learned counsel submits that it is not in the hands of appellant/surety to apprehend the accused-Kuldeep Kumar as he is completely unaware about the whereabouts of accused. He



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further submits that Section 491(3) of BNS, 2023 empowers the Court to grant remission, it is within the discretion of the Court to grant remission and to decide the extent of remission. Moreover, the appellant is a poor person doing the work of a labourer, as such, he is unable to pay such a huge amount of Rs.1 lakh imposed upon him as penalty. As such, the impugned order is liable to be set aside.

4. Notice of motion.

5. Ms. Geeta Sharma, DAG, Haryana, who is present in the Court, accepts notice on behalf of respondent-State and *per contra*, opposes the prayer made by the appellant on the ground that the appellant stood surety of accused-Kuldeep Kumar, as such, it is the duty of the appellant to produce the accused in the Court. Thus, the learned trial Court has rightly passed the impugned order and Collector, Hisar has rightly imposed the penalty of Rs.1,00,000/- upon the appellant and he does not deserve any leniency.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the appellant is a poor person and is unable to pay the penalty amount of Rs.1 lakh. Further, the conviction of accused in the FIR (*supra*) has already been upheld and there is no allegation against the appellant that he connived with the accused.

7. A similar issue was decided by the Hon'ble Supreme Court in '*Mohammed Kunju v. State of Karnataka*' 1999 (4) RCR (Criminal) 726 and this Court in '*Bhagat Singh v. State of Haryana*' 2018 (2) RCR (Criminal) 337, '*Mohinder Singh v. The State of Punjab*' 2008 (22) RCR (Criminal) 704, '*Angrej Singh v. State of Punjab*' 2010 (4) RCR (Criminal) 580 and '*Gopal Kaur v. State of Punjab*' 2011 (6) RCR (Criminal) 1394, wherein, the



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penalty imposed under Section 446 of Cr.P.C. was reduced to 1/4th of the amount of surety bonds by holding that the said bonds were on the higher side.

8. The appellant had no knowledge that the convict would not surrender on time and there are no allegations of collusion between the appellant and the accused with regard to the accused not surrendering before the learned lower Appellate Court.

9. Keeping in view the facts and circumstances of the case, this Court is of the opinion that the interest of justice would be served in allowing the present appeal. Resultantly, the impugned order dated 14.11.2024 passed by Collector, Hisar is hereby quashed.

10. The penalty imposed upon the appellant is reduced to Rs.25,000/- from Rs.1,00,000/- If the said amount of Rs.25,000/- has not been deposited or recovered from the appellant so far, he is directed to deposit the same with the trial Court, within a period of 03 months from today, failing which, this appeal would automatically stand dismissed without any further orders.

11. Disposed of, in the aforesaid terms.

**May 19, 2025**  
*manisha*

**(HARPREET SINGH BRAR)**  
**JUDGE**

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|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |