

P L D 2001 Lahore 545

Before Zafar Pasha Chaudhary, J

ZULFIQAR AHMAD---Petitioner

versus

THE STATE and another---Respondents

Criminal Revision No. 415 of 2001, heard on 2nd July, 2001.

(a) Criminal Procedure Code (V of 1898)----

---Ss. 514 & 498---Offence of Zina (Enforcement of Hudood) Ordinance (VII of 1979), S.10---Forfeiture of surety bond---Petitioner had stood surety for the appearance of accused in Court on his having been granted interim pre-arrest bail in the case on 2-4-2001 till 7-4-2001---Accused appeared in Court on 7-4-2001, but the Presiding Officer being on leave, the matter was adjourned to 12-4-2001 and interim bail was extended till then---Accused did not turn up in Court on 12-4-2001 and thereafter absconded with the result that the petitioner by means of the impugned order was burdened to pay the surety amount---Surety bond being a contract between the surety and the Court that in case the accused defaulted in appearance the surety would be responsible only for the date for which the surety bond was executed; the petitioner was not liable to produce the accused in the Court on any subsequent date---Order passed by Sessions Court directing the petitioner to deposit the surety amount was not lawful in circumstances and the same was set aside---Revision petition was allowed accordingly.

Sardar Muhammad v. The State 1998 PCr.LJ 236 ref.

(b) Criminal. Procedure Code (V of 1898)

--Ss. 514 & 498---Forfeiture of bond---Procedure -Amendment required in the printed Form of surety bond---When the interim bail already granted up to a certain date is extended then care should be taken that the accused shall furnish bond up to that date or suitable amendment be incorporated in the surety bond that the sureties will be responsible to produce the accused in Court on next date of hearing or on any other subsequent date fixed till the final disposal of the matter.

High Court observed that ordinarily what happens is that an interim bail is granted up to a certain date, thereafter, if the same is extended then care should be taken that accused shall furnish bond up to that date or suitable amendment be incorporated in the bond which is obtained from the sureties that they will be responsible to produce the accused on next date of hearing or on any date in the bail matter fixed subsequent to that date. So far as the present pro forma of Surety Deed is concerned, it provides that the surety will be responsible for production of the accused on one date only which is provided next after grant of ad interim bail. On account of this defect the Zamanat Nama which is available in printed form is accepted in routine without realizing the consequences as to what will be situation, in case the matter is adjourned to some other date and the bail is extended further. The printed Form therefore, should incorporate a covenant that the surety shall be bound till the disposal of application for pre-arrest bail or in the alternative the surety should give an undertaking to produce the accused till then. Necessary amendment may be incorporated in the Zamanat Nama and in future care should be taken by the Courts below in this behalf.

Arshad Iqbal Tarar for Petitioner. Syed Fida Hussain Shah for the State.

Date of hearing: 2nd July, 2001.