

Court No. - 93

Case :- APPLICATION U/S 482 No. - 45190 of 2023

Applicant :- Rajesh Kumar Gurnani

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Rama Shankar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

Applicant is an appellant before the court of sessions, wherein the judgment of conviction and order of sentence dated 17.6.2023 passed against the applicant by Magistrate in Complaint Case No. 830 of 2020, under Section 138 Negotiable Instruments Act, 1881 has been challenged, and the appellate court vide order dated 15.7.2023 has stayed the fine of Rs.4 lacs imposed by trial court subject to the condition that applicant deposits a sum of Rs.1 lac within a period of 60 days. This application has been filed under Section 482 Code of Criminal Procedure to challenge the order dated 25.10.2023 passed by the appellate court, whereby the applicant's request seeking extension of time to deposit the amount has been dismissed.

Learned counsel for applicant submits that applicant-appellant is not at all questioning the legality and validity of the order dated 15.7.2023 and craves the limited indulgence of this Court to permit him to deposit the amount of Rs.1 lac in some extended period as the said amount could not be deposited within the period of 60 days as ordered by the appellate court because of certain financial difficulties. He submits that appellate court has erroneously dismissed the application without properly considering the nature of the order dated 15.7.2023, and in case, ten days period is granted, he would deposit the sum of Rs.1 lac before the appellate court in compliance of the order dated 15.7.2023.

Upon considering the submissions of learned counsel particularly his undertaking to deposit the amount within ten days, this Court is not inclined to issue any notice to the complainant to avoid extra burden upon the complainant, as the nature of order passed herein would not result in any prejudice to the complainant.

Thus, finding the explanation for delay in compliance of the order dated 15.7.2023 by the applicant as probable, the impugned order dated 25.10.2023 is set aside and it is ordered that in case the applicant deposits the requisite amount of Rs.1 lac on or before 22.12.2023, the order dated 15.7.2023 relating to interim relief shall remain operative.

With these observations, the application is disposed of.

Order Date :- 12.12.2023
P.S.Parihar