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CRR 2954 of 2026

Jinnatali Dafadar

Vs.

Dr. Debdutta Banerjee

Mr. Sabyasachi Chatterjee

Mr. Akashdeep Mukherjee

Mr. Soumyadeep Nag

...for the Petitioner

In this application, the petitioner herein has assailed the order dated 3.6.2024 passed in C case no. 642 of 2021 by the learned Judicial Magistrate, 4th Court, Barrackpore by which the court below issued conviction warrant against the petitioner thereby fixing the next date for execution report.

The background of the present application is that the petitioner herein was convicted by the Trial court for commission of offence punishable under Section 138 of the N.I. Act and was directed to pay a fine of Rs. 12,60,000/- within one month from the date of the order, in default, to suffer simple imprisonment for six months.

Being aggrieved by the aforesaid order, learned counsel for the petitioner preferred a criminal appeal being no. 95 of 2023, where the accused was directed to deposit 20% of the fine amount to the judicial cash and to submit a receipt within 20th December, 2023. The appellate court has further directed that the prayer for stay of the order of judgment and conviction dated 29.8.2023 shall be considered only after making of the aforesaid payment by the petitioner/convict.

Learned counsel for the petitioner submits that due to financial constraints, he could not deposit the said amount before the Trial court but now he is willing to deposit the said 20% of the fine amount before the Trial court, in compliance of the order passed by the appellate court and as such, a liberty may be given to him to make such deposit and also to surrender before the court below thereafter.

Having heard learned counsel for the petitioner and that the prayer made by the petitioner is innocuous and if it is allowed in terms of the prayer made by the petitioner, the opposite party will have no cause to prejudice and as such the service of copy of the application upon the opposite party is hereby dispensed with.

In view of the aforesaid submission made on behalf of petitioner, the instant application being CRR 2954 of 2026 is hereby disposed of by giving liberty to the petitioner to deposit 20% of the fine amount to judicial cash as directed by the appellate court in Criminal appeal no. 95 of 2023, within a period of three weeks from the date of this order and the petitioner is given further liberty to surrender before the court below within a period of one week thereafter and in the event of such surrender the concerned court shall dispose of his prayer in accordance with law, without being influenced by any observations made herein.

The impugned order dated 3.6.2024 and all subsequent orders, which pertain to the issuance of warrant of arrest against the petitioner, is hereby stayed for a period of four

weeks or till the petitioner surrenders before the court below, whichever is earlier.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)