

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

CRM-M No. 22364 of 2016
Date of decision : July 27, 2016

Harish Kumar @ Vicky

..... Petitioner

v.

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ashok Giri, Advocate
for the petitioner.

Mr. KS Panoo, DAG Punjab

Ajay Tewari, J (Oral)

On 8.7.2016, the following order was passed :-

“ The Full Bench of this Court in the matter of ***Jang Singh vs. State of Punjab, 2008(1) RCR (Criminal) 323***, in an identical situation held that in such circumstances such a petition is not maintainable.

Learned counsel has argued that the aforesaid judgment would not be applicable to the facts of the present case because in that case an application under Section 482 Cr.P.C. was filed seeking concurrence of sentence though that relief was not granted either in appeal or in revision. However, in the present case the petitioner has not filed any appeal and has been

convicted in both cases on the basis of confession. He has further argued that the petitioner has already undergone 15 months out of the total sentence of 2 years.

Notice of motion.

On the asking of the Court, Mr. K.S. Pannu, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent. Learned counsel for the petitioner undertakes to supply a copy of the petition to the learned D.A.G. during the course of the day.

Adjourned to 27.07.2016.”

Today, learned DAG Punjab states that the only ground taken by the petitioner for not having filed the appeal was that he had admitted his guilt in both the cases but in the present case he could have filed an appeal with regard to the concurrence of the sentence. In this connection, he has referred to Section 375 of the Cr.P.C, which is quoted herein below :-

375. No Appeal in certain cases when accused pleads guilty. Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal,-

- (a) if the conviction is by a High Court; or
- (b) if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence.”

A perusal of sub-section (b) reveals that the petitioner could have filed the appeal with regard to the concurrence of sentence.

Counsel for the petitioner states that in the facts and

circumstances of the present case, the petitioner will now file the appeal

but considering the fact that he has undergone more than 15 months out of two successor sentence of 1 year each, he may be allowed interim bail.

I find this to be a fair request. Resultantly, even while dismissing this petition and giving liberty to the petitioner to approach the appellate Court, he is directed to be released on interim bail to the satisfaction of CJM, Jalandhar. Needless to say, the question of his any further custody would be dependent on the order passed by the appellate Court.

July 27, 2016
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No