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

CRM-M-13748 of 2017

Date of decision: May 12, 2017

Karnail Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Gulzar Mohd, Advocate for the petitioner.

Mrs. Rajni Gupta, Addl. AG Punjab.

None for respondent No.2-complainant.

A.B. CHAUDHARI, J (Oral)

This is a petition for suspension of sentence in pending appeal No.CRA No.17 of 2017 that was filed before the Additional Sessions Judge, Jalandhar, for hearing.

This Court, vide order dated 25.04.2017, had issued notice to the complainant with a view to enable the complainant to appear and heard his case. However, though, served none appears for complainant-respondent No.2.

Petitioner has been sentenced to undergo Rigorous Imprisonment for 7 years for the offence under Section 468 of the Indian Penal Code, 1860 (for short 'IPC') along with other offences, with fine. He filed appeal before the Sessions Court which is pending. He also applied for suspension of sentence on the ground that he was already on bail during trial and there was no evidence to show that he

had misconducted himself while on bail.

Learned lower Appellate Court having gone through the facts in the prosecution case found that the accused persons had made conspiracy to execute sale-deed on the basis of forged power of attorney and by using them as genuine, cheated the complainant. The trial Court has also imposed fine in the sum of ₹1,00,000/-, i.e. ₹50,000/- each to the petitioner and his co-accused, for the offences punishable under Section 420 IPC and 468 IPC.

From the perusal of the order made by the Sessions Court, it is clear that it found that the offences for which the petitioner was convicted were serious as by executing sale-deeds on the basis of forged power of attorney, he cheated the complainant. But, then as a matter of fact, the first appeal before the lower Appellate Court being a matter of right, will have to be decided one way or the other, which is bound to take its own time. I think, it would be therefore, appropriate to suspend the substantive sentence awarded to the petitioner. In so far as the suspension of fine of ₹1,00,000/- (₹50,000/- each) is concerned, I think since the petitioner and his accomplice collected huge amounts by executing sale-deeds on the basis of forged power of attorney, as prima-facie, found by the lower Appellate Court, the deposit of fine of ₹1,00,000/- (₹50,000/- each) should be pre-condition, if the petitioner wants to be on bail during the pendency of the appeal. In that view of the matter, the following order is passed:-

ORDER

- (i) CRM-M-13748 of 2017 is partly allowed;
- (ii) The substantive sentence awarded to the appellant is suspended till the decision in the appeal before the Sessions Court. However, the sentence of fine is not suspended and the petitioner will have to deposit ₹1,00,000/- (₹50,000/- each by the petitioner and his co-accused) before the trial Court, as a pre-condition for released on bail.

(A.B. CHAUDHARI)
JUDGE

May 12, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No