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

CRM-M-20281 of 2017

Date of decision: June 02, 2017

Ashok Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

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

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

A.B. CHAUDHARI, J (Oral)

This is a petition for suspension of sentence in pending appeal No.CRA No.186 of 2017 that was filed before the Additional Sessions Judge, Jalandhar, for hearing.

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 they were already on bail during trial and there was no evidence to show that they had misconducted themselves 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 petitioner), 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 along with co-accused 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 petitioner) is concerned, I think since the petitioner along with co-accused 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 petitioner) 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-20281 of 2017 is partly allowed;
- (ii) The substantive sentence awarded to the petitioner 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 petitioner) before the trial Court, as a pre-condition for release on bail.

(A.B. CHAUDHARI)
JUDGE

June 02, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No