

Sr. No.124

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

CRM-M-19362-2018(O&M)

Date of decision:12.07.2018

M/s D.R.Footware, 1C-DT/15 and another

.....Petitioners

versus

Niranjan Sharma

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Amrainder Singh, Advocate
for the petitioners.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing of the Order dated 10.04.2018(Annexure P-1); passed by the learned Sessions Judge, Faridabad; to the extent it has imposed a condition to deposit an amount of Rs. 6 lakhs within 15 days, while ordering the suspension of sentence of the petitioner and ordering his release on bail.

In the present case, the petitioner has been convicted and sentenced under Section 138 of Negotiable Instruments Act. He has been sentenced with imprisonment of six months and compensation of Rs. 18 lakhs have been awarded against him; since the amount of cheques dishonored in the case were for an amount of Rs. 12 lakhs. After his conviction by the Trial Court, the petitioner had preferred an appeal before the Court of Sessions Judge, Faridabad. While suspending the sentence, the above said condition has been imposed by the Sessions Judge, Faridabad.

Learned counsel for the petitioner submits that imposition of condition of depositing such a heavy amount for suspension of sentence is,

in fact, denying bail to the petitioner. The Court could not have insisted upon deposit of such a heavy amount by the petitioner for releasing him on bail.

Learned counsel for the petitioner relies upon a judgment of the Hon'ble Supreme Court rendered in **2007(2)R.C.R.(Criminal)636; Dilip S.Dahanukar vs. Kotak Mahindra Co. Ltd. and another** to contend that the condition of deposit of such a heavy amount; for suspension of sentence of a convict; should not be insisted upon by the Court.

Keeping in view the amount of compensation awarded in this case, the amount of cheques in question and the Judgment of the Hon'ble Supreme Court cited above, the petitioner was asked by this Court to deposit an amount of Rs.2 lakhs, instead of Rs.6 lakhs, as was required by the Order passed by the Court of Sessions Judge, Faridabad. However, the petitioner has shown his disinclination even to deposit this amount.

In view of the above, this Court does not find any ground to interfere with the Order passed by the Sessions Court, Faridabad. It is for the petitioner to decide whether to avail the benefit of suspension of sentence by complying with the conditions imposed by the Appellate Court while releasing him on bail, or not to avail that concession granted by that Court at all.

Dismissed.

12th July, 2018

Shivani Kaushik

[RAJBIR SEHRAWAT]

JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*