

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

CRM-M-29467-2018 (O&M)

Date of Decision:-16.7.2018

Sandeep Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amaninder Singh Sekhon, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

By way of filing the present petition, the petitioner assails order dated 11.4.2018 passed by learned Additional Sessions Judge, Faridkot, whereby an application under Section 5 of Limitation Act for condonation of delay of 51 days in filing of the appeal against order dated 28.6.2016 passed by learned District Magistrate-cum-District Collector-cum-Deputy Commissioner, Faridkot, has been dismissed.

Notice of motion.

Mr. A.S. Sandhu, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

I have heard the learned counsel for the petitioner as well as the learned State counsel.

A few facts necessary to notice for disposal of the present petition are that one Anil Kumar had been convicted for having committed an offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances, Act, 1985 pertaining to FIR No.29 dated 12.2.2013 registered at

Police Station G.R.P., Faridkot. The said Anil Kumar was released on four weeks' parole vide order passed by District Magistrate-cum-District Collector-cum-Deputy Commissioner, Faridkot and was to surrender back in jail on 2.1.2016. However, the said Anil Kumar did not surrender back on the stipulated date. The present petitioner had furnished surety bonds in the sum of ₹ 2 lacs so as to ensure that said Anil Kumar surrenders back on the date fixed. Since, Anil Kumar did not surrender back, therefore, the District Magistrate, Faridkot vide order dated 28.6.2016 directed the petitioner to deposit the surety amount of ₹ 2 lacs. The said order was sought to be challenged by the petitioner by way of filing an appeal in the Court of Sessions. However, since the appeal was not filed within the prescribed period of limitation, therefore, an application for condonation of delay of 51 days was filed alongwith the said appeal. The said application has, however, been dismissed by the learned Additional Sessions Judge, Faridkot vide impugned order dated 11.4.2018.

The learned counsel for the petitioner, while assailing the impugned order, has submitted that the delay in filing the appeal was not intentional and that the petitioner was not to gain anything by intentionally delaying the filing of appeal. It has been submitted that the amount of ₹ 2 lacs is a huge amount and that he may be permitted to avail of his right of first appeal especially since the delay of 51 days cannot be said to be a gross delay.

On the other hand, the learned State counsel has submitted that no cogent reason is forthcoming for condonation of delay and that in these circumstances the learned Additional Sessions Judge, Faridkot was perfectly justified in dismissing the said application for condonation of delay.

Having considered the rival submissions addressed before this Court and bearing in mind the fact that it is a case of delay of 51 days only and also that the amount which the petitioner has been directed to pay is a huge amount, in my opinion, the petitioner deserves to be afforded a right of first appeal so as to challenge order dated 28.6.2016. Accordingly, the present petition is hereby accepted and the order dated 11.4.2018 passed by learned Additional Sessions Judge, Faridkot dismissing the application for condonation of delay is hereby set aside. The delay of 51 days in filing of the appeal is hereby condoned. The matter is remanded back to the Court of learned Additional Sessions Judge, Faridkot so that the appeal may be decided on merits.

The present petition stands accepted in above mentioned terms.

16.7.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No