

113
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/11/2018 17:26
I attest to the accuracy and
authenticity of this document

CRM-M-54046-2018 (O/M)
Date of decision : 6.12.2018

Amandeep Singh Petitioner (s)
Versus
Monika Bhatia Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Nidhi Garg, Advocate, (Legal Aid Counsel),
for petitioner.

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KULDIP SINGH, J. (ORAL)

Heard. Petitioner is aggrieved of order dated 29.10.2018, passed by learned Additional Sessions Judge, Faridabad, in which while dealing with appeal, filed by appellant (present petitioner) against his conviction under Section 138 of Negotiable Instruments Act, 1881, sentence of appellant/petitioner was suspended during pendency of appeal and he was ordered to be released on bail, subject to condition of deposit of 25% of compensation amount i.e. Rs. 3,00,000/-, on or before next date of hearing of case. The next date of hearing was fixed as 14.11.2018.

It comes out that Negotiable Instruments Act, 1881, has been amended by Negotiable Instruments (Amendment) Act, 2018, (No. 20 of 2018), with effect from 2.8.2018, in which Sections 143 A and 148 of Negotiable Instruments Act, 1881, have been added. Section 143 A of said Act deals with interim compensation during pendency of complaint before trial Court, whereas Section 148 of said Act deals with power of lower appellate Court in appeal against conviction.

Section 148 (1) of Negotiable Instruments (Amendment) Act, 2018, provides as under :-

'148. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against

conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be minimum of twenty per cent of the fine or compensation awarded by the trial Court ;

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under Section 143A.

(2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of appeal.'

It goes to show that in an appeal, lower appellate Court may order appellant to deposit such sum, which shall be a minimum of 20% of amount of fine or compensation. In this case, lower appellate Court has ordered petitioner to deposit 25% of compensation amount. There is no illegality or infirmity in said order. However, as per provided sub section (2) of Section 148 of Negotiable Instruments (Amendment) Act, 2018, period to deposit such fine shall be sixty days from the date of passing of order i.e. 29.10.2018 and not till next date of hearing. It is made clear that petitioner shall be released on bail but for deposit of amount as ordered by lower Appellate Court, 60 days time is granted.

With abovenoted observations, petition is dismissed.

(KULDIP SINGH)
JUDGE

6.12.2018
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No