

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

CRM-M-8934-2018

Date of decision:-1.3.2018

Ram Kishan Sharma

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Gaurav Singla, Advocate
for the petitioner.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioner - Ram Kishan Sharma feeling aggrieved by order dated 21.2.2018 passed by learned Sessions Judge, Faridabad in CRA-154-2018 imposing a condition while granting bail to the petitioner directing him to deposit Rs.4,00,000/- in favour of the complainant within 15 days.

Briefly stated, facts of the case are that on a complaint under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as '*the Act*') having been filed by complainant - Prem Raj against accused Ram Kishan, Judicial Magistrate Ist Class, Faridabad vide order dated 18.1.2018 convicted the accused for an offence under

Section 138 of the Act and in terms of order dated 22.1.2018 sentenced him to undergo simple imprisonment for the period of six months and to pay a compensation to the tune of Rs.12,00,000/- to complainant within a period of two months from the date of passing of judgment.

Feeling aggrieved by the said judgment of conviction and order of sentence, the accused had preferred an appeal before the Court of Sessions. Learned Sessions Judge, Faridabad vide impugned order while suspending the sentence of appellant/accused and granting him bail imposed a condition that he would either furnish bank draft for an amount of Rs.4,00,000/- (i.e. half of the cheque amount) or bank guarantee to the extent of Rs.4,00,000/- or FDR to the extent of Rs.4,00,000/- in favour of the complainant within 15 days from the date of passing of the order dated 21.2.2018. The petitioner has though furnished the bonds but has not complied with the directions for furnishing either bank draft for an amount of Rs.4,00,000/- i.e. half of the cheque amount or bank guarantee to the extent of Rs.4,00,000/- or FDR to the extent of Rs.4,00,000/- in favour of the complainant.

Feeling aggrieved by the said condition, the petitioner has filed the present petition.

I have heard leaned counsel for the petitioner besides going through the record and I do not find any illegality or infirmity with such condition imposed. Learned Sessions Judge, Faridabad while imposing this condition has kept in view the ratio of authority **Dalip S. Dahanukar Versus Kotak Mahindra Co. Ltd. 2007(2) RCR(Criminal) 636**, wherein it has been observed that the Appellate Court can put any term or condition while suspending the sentence. The cheque amount in

this case is Rs.8,00,000/-. The trial Magistrate has awarded compensation of Rs.12,00,000/-. The Appellate Court has asked the appellant/accused to pay a sum of Rs.4,00,000/- only i.e. 50% of the cheque amount and 1/3rd of the compensation awarded. Such condition cannot be termed as harsh or illegal. Learned Sessions Judge, Faridabad was fully justified in imposing such condition and no fault can be found in the said order. I do not find any ground to quash/set aside the order by allowing the petition.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

1.3.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No