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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1541/2018 & CRL.M.A. 5593/2018, 6096/2018,
6097/2018

LAL SINGH Petitioner

Through: Mr. Sumit Saharawat, Advocate.

versus

STATE & ANR Respondents

Through: Mr. Mukesh Kumar, APP for State.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **27.07.2018**

The petitioner stood trial in the court of Metropolitan Magistrate in the complaint case (CC No.4998123/16) filed by the second respondent and by judgment dated 20.12.2017 he was held guilty and convicted for offence punishable under Section 138 of Negotiable Instruments Act, 1881. By subsequent order dated 31.01.2018, the trial court awarded punishment in the form of simple imprisonment for two months with Rs.8 lakhs directed to be paid as compensation with the rider that in case of default in payment of fine within 60 days, the petitioner would further undergo simple imprisonment for six months. The Metropolitan Magistrate suspended the order on sentence till 05.03.2018 to facilitate appeal to be preferred.

The petitioner has preferred criminal appeal no. 85/2018 which is pending in the court of Additional Sessions Judge-05, South-West,

Dwarka courts complex. While entertaining the appeal, the Sessions court also considered the prayer made by the petitioner for suspension of sentence. By order dated 05.03.2018, the substantive sentence of imprisonment was suspended. But the petitioner was directed to deposit fixed deposit receipt in the amount equivalent to the amount of compensation payable by him for which time was given for compliance till 31.03.2018.

The petitioner came up with the petition at hand under Section 482 Cr.P.C. questioning the afore-mentioned directions of the first appellate court, his prime submission being inability to make such deposit as has been insisted upon. By order dated 23.03.2018, the coordinate bench then dealing with the matter, reduced the rigor of the condition by requiring the petitioner to deposit Rs.6 lakhs in the form of fixed deposit receipt by 09.04.2018. On 06.04.2018, the petitioner submitted continued inability to deposit such amount, his plea being that he would require time to raise loan and, thus, in the meanwhile, he was ready to deposit his motorcycle bearing no.HR-26BX-4755. The order dated 06.04.2018, permitted such a course of action. It appears the petitioner has deposited the vehicle with malkhana of P.S. Najafgarh on 07.04.2018.

During the course of hearing, the counsel for the petitioner submitted that the petitioner would be in a position to make the deposit in terms of order dated 05.03.2018 of the first appellate court if time of further 30 days were to be granted.

The petition is, thus, disposed of with the direction that petitioner shall comply with the directions in the order dated 05.03.2018 regarding deposit of the amount payable as compensation in the form of fixed deposit receipt within 30 days hereof. Upon such deposit being made, the vehicle along with its documents shall be released to him. Needless to add, in case of non-compliance with the direction for deposit, the first appellate court will have the liberty to pass all consequent orders.

The petition is disposed of in above terms.

Dasti under the signatures of Court Master.

R.K.GAUBA, J

JULY 27, 2018

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