

\$~22

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Judgment delivered on: 02.04.2018

+ CRL.M.C. 631/2018

CHANDER MOHAN MAGGON

..... Petitioner

versus

TEJINDER SINGH

..... Respondent

Advocates who appeared in this case:

For the Petitioner	:	Mr Sarthak Maggon, Advocate.
For the Respondent	:	Mr Ankur Jain

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

02.04.2018

SANJEEV SACHDEVA, J. (ORAL)

CRL.M.C. 631/2018 & Crl.M.A.2277/2018(stay)

1. The petitioner impugns order dated 21.07.2017 passed by the Revisional Court dismissing the Revision Petition filed by the petitioner impugning the condition imposed by the Trial Court of furnishing a bail bond in the sum of Rs.3 lakhs with one surety of the like amount.

2. Learned counsel for the petitioner submits that the said condition is onerous as the petitioner does not have the wherewithal to furnish a surety of the said amount.

3. Learned counsel for the petitioner submits that the Revisional Court, while rejecting the Revision Petition erroneously quoted the order passed by the Trial Court, which was the very impugned order before the Revisional Court and on parity of conditions dismissed the Revision Petition. The Revisional Court quoted the Trial Court's order as an order passed in another case where the personal bond/surety bond in the sum of Rs.3 lakhs was directed to be furnished.

4. Learned counsel for the respondent, on the other hand, contends that the petitioner has sufficient means to pay the surety amount and has been taking contradictory stand. At one point, it is stated, that he has no source of income and at the other, he has stated that he is earning livelihood by selling electronic goods.

5. Further, it is contended that the order impugned is merely an interlocutory order and no interference is called for in exercise of powers conferred under Section 482 of the Code of Criminal Procedure (Cr.P.C.), as the Revision Petition filed by the petitioner has already been rejected by the Revisional Court.

6. I am unable to accept the contention of the Learned Counsel for the Respondent.

7. The purpose of furnishing a personal bond and a surety bond is to ensure that the person who is enlarged on bail complies with the

conditions of bail and appears before the Trial Court, as and when the matter is listed before the Trial Court. Conditions imposed for grant of bail should not be so onerous so as to negate the very order of bail.

8. In the present case, the Trial Court has imposed the condition of furnishing a personal bond and a surety in the sum of Rs.3 lakhs. The petitioner has contended that the petitioner does not have wherewithal to furnish a surety in the sum of Rs.3 lakhs.

9. Learned counsel for the respondent though has referred to different pleadings filed by the petitioner, however, has not been able to show that the petitioner is a man of means.

10. Without commenting upon the merits of the case of the either parties, in my view, the condition requiring the petitioner to furnish a surety of Rs.3 lakhs is onerous and in effect negates the very order of grant of bail.

11. Further contention of the learned counsel for the respondent that the subject order is an interlocutory order and petitioner has already availed of his remedy of Revision, in my view, has no merit inasmuch as order of bail affects the right of the accused and in case the petitioner is not enlarged on bail solely on account of an onerous condition, the petitioner shall suffer incarceration for no fault of his. Further, it may be noticed that the Revisional Court has erred in relying on the very order of the Trial Court which was impugned

before it, as in instance to draw parity for sustaining the condition of furnishing a surety bond in the sum of Rs.3 lakhs.

12. In view of the above, the Petition is allowed. The impugned order of the Trial Court is modified to the extent that, while petitioner shall furnish a personal bond in the sum of Rs.3 lakhs, the petitioner would be required to furnish a surety in the sum of Rs.50,000/- to the satisfaction of the Trial Court.

13. Order Dasti under signatures of the Court Master.

SANJEEV SACHDEVA, J

APRIL 02, 2018

'Sd'

नित्यमेव जयते