

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

239

CRR No.733 of 2019 (O&M)

Date of decision: 10.05.2019

Jugal Kishore

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Susheel Gautam, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

On 25.03.2019 while noticing contentions of learned counsel
for the petitioner, following order was passed:-

“Learned counsel for the petitioner inter alia submits that after being declared as proclaimed offender vide order dated 24.8.2015, the petitioner appeared in the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, after getting anticipatory bail and compounded the offence by making the payment of the cheque amount. Once, the petitioner joined the trial, the order declaring him as proclaimed offender came to an end and thus, the conviction of the petitioner under Section 174-A IPC is illegal. It is, further, submitted that the petitioner is a first offender and a lenient view may be taken regarding the sentence.

Notice of motion for 10.5.2019.”

In this case, the petitioner has been convicted under Section
174-A of the Indian Penal Code and sentence to undergo rigorous

imprisonment for six months. Section 174-A is on account of non-appearance in response to the proclamation under Section 82 of the Act No.2 of 1974. It is not disputed that in the main case i.e. under Section 138 of the Negotiable Instructions Act, 1881, the petitioner has paid the entire amount and the complaint has been withdrawn. The petitioner is in custody since 13.03.2019. As per the provisions of the Act, there is no minimum sentence prescribed. The petitioner is aged about 42 years as per the judgment passed by the learned Sessions Judge. He has a wife and two children to support. He is the sole bread earner.

Keeping in view the aforesaid fact, the sentence awarded to the petitioner is converted into the period already undergone. The petitioner is directed to be released on bail subject to furnishing of requisite surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Panipat.

The petition is disposed of.

10.05.2019
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No