

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

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CRR No.2438 of 2019

Date of decision : 23.09.2019

Amrik Singh

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Yashpal Thakur, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the order of the lower Appellate Court dated 13.08.2019 whereby while suspending the sentence of imprisonment, the petitioner had been directed to pay fine imposed by the trial Court.

The petitioner has been convicted under Section 61 of the Punjab Excise Act and sentenced to undergo imprisonment for a period of one year and to pay a fine of ₹ 1 lac by the trial Court. He had preferred his appeal which is pending adjudication before the Appellate Court. Learned counsel for the petitioner has stated that in view of Section 357 Clause 2 of the Cr.P.C., the Appellate Court cannot make the payment of fine as a condition for suspending the sentence. He has also relied upon the judgments of the Coordinate Benches of this Court in the cases of *Sabita Behl vs. State of Haryana, 2004(1) RCR (Criminal) 659* and *Kedar Nath vs. State of Haryana and another, 2006(4) RCR (Criminal) 582*, wherein similar condition imposed by the Appellate Court as a pre-requisite for suspension of sentence during the pendency of the appeal was set aside.

Issue notice to the respondent.

At the asking of the Court, Mr. N.K. Banka, DAG, Punjab, accepts notice on behalf of the respondent.

It is manifest from the reading of Section 357(2) Cr.P.C. that in the event of the appeal having been presented, the fine is not to be paid till the decision of the appeal. This has also been held in the judgments of the Coordinate Benches of this Court in the cases of *Sabita Behl vs. State of Haryana* and *Kedar Nath vs. State of Haryana and another (supra)*.

Consequently, this petition is allowed and the impugned order is set aside. The payment of fine shall be subject to the provisions of Section 357(2) Cr.P.C. The Appellate Court shall not insist on the payment of fine as a condition for suspending the sentence of the petitioner.

(ANUPINDER SINGH GREWAL)
JUDGE

September 23, 2019
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No