

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

**CRM-M No.42457 of 2019
Decided on: 14.10.2019**

Sumit Kumar	Versus	Petitioner
State of Haryana and another		Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Saleem Ahmed, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in Appeal No.239 of 2019 (CIS No.604 of 2019) titled as Sumit Kumar vs Mohan Kumar, arising out of the judgment of conviction and order of sentence passed in criminal complaint No.308 dated 21.02.2017 (CIS No.588 of 2018) filed under Section 138 of the Negotiable Instruments Act titled as Mohan Kumar vs Sumit Kumar.

Counsel for the petitioner has submitted that after the petitioner was convicted by the trial Court vide its judgment of conviction dated 21.09.2018, his sentence was suspended for a period of 01 month subject to his furnishing bail/surety bonds. It is further submitted that subsequently, the petitioner has effected a compromise with the complainant – Mohan Kumar and on that pretext, he was advised not to file an appeal. It is also submitted that in the intervening period, the trial Court cancelled the bail/surety bonds of the petitioner and issued warrants of arrest and on coming to know about this fact, the petitioner filed an appeal before the Lower Appellate Court on

04.09.2019 challenging the judgment of conviction and order of sentence and he was taken in custody on the same day i.e. 04.09.2019

The Appellate Court, however, dismissed his application for suspension of sentence/bail vide order dated 11.09.2019, after noticing that counsel for the respondent i.e. the complainant has not opposed the prayer for bail but still declined the bail only on the ground that the petitioner has misused the concession of the bail granted by the trial Court at the time of passing of the judgment of conviction and the petitioner has not filed the appeal in time.

Counsel for State has not disputed the factual position but opposed the prayer for bail.

Considering the fact that counsel appearing for respondent No.2 – Mohan Kumar, has given no objection before the Lower Appellate Court, the service of respondent No.2 is dispensed with, at this stage, for the purpose of granting the suspension of sentence.

Without commenting anything on merits of the case, this petition is allowed, the sentence of the petitioner shall remain suspended during the pendency of the first appeal before the Court of Sessions Judge, Faridabad, subject to his furnishing bail/surety bonds to the satisfaction of the Appellate Court.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found involved misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

14.10.2019
yakub

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No