

**207 IN THE HIGH COURT OF PUNJAB AND HARYAN
AND CHANDIGARH**

CRM-M-12434-2020 (O&M)

Date of Decision : 28.05.2020

Ashwit Cement Co. and another ...Petitioners

Versus

M/S Goyal Steel Traders ...Respondent

CRM-M-12441-2020 (O&M)

Ashwit Cement Co. and another ...Petitioners

Versus

M/S Jai Durga Traders ...Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deepak Aggarwal, Advocate
for the petitioners.

Mr. R.D. Gupta, Advocate
for the respondent.

ALKA SARIN, J (ORAL)

Heard through video conferencing.

On 18.05.2020, the following order was passed :-

“Both CRM-M-12434 of 2020 and CRM-M-12441 of 2020 are being taken up together as the point in issue in both cases is identical. Facts of the case are being taken from CRM-M-12441 of 2020.

The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 11.05.2020, Annexure P-4 passed by the learned Addl. Sessions Judge (D), Bathinda in CRA No.481 of 2019, COMA No.38269 of 2013 dated 13.12.2012 under Section 138 of the Negotiable Instruments Act,

1881 vide which the application filed by petitioner No.2 for extension of time to furnish bail bonds/surety bonds was declined and further for grant of extension of 10 days' time to enable him to furnish bail/surety bonds as directed by the learned Addl. Sessions Judge, Bathinda vide order Annexure P/2 dated 04.04.2019.

Learned counsel for the petitioners contends that petitioner No.2 was convicted and sentenced to undergo rigorous imprisonment for a period of one year and six months for the offence punishable u/s 138 of the Negotiable Instruments Act and to pay compensation to the complainant to the tune of Rs.2,50,000/- along with interest @ 9% per annum from the date of issuance of cheque in question till date. However, on an appeal (i.e. Annexure P/2) sentence awarded to the appellant/petitioner No.2 was suspended and he was ordered to be admitted to bail till the disposal of the appeal on his furnishing bail bonds/surety bonds in the sum of Rs.50,000/- within fifteen days from passing of the order to the satisfaction of the trial Court/Duty Magistrate and the trial Court/Duty Magistrate was directed to send the bail bonds/surety bonds to be furnished by the appellant/petitioner No.2 to the Appellate Court and further as per Section 148 of the Negotiable Instruments (amended 2018) Act, appellant/petitioner No.2 herein was directed to deposit 20% of the cheque amount/compensation amount awarded by the learned trial Court within 60 days and the amount so deposited with the trial Court was ordered to be kept in the shape of FDR in a nationalized Bank to be released to the complainant as and when directed during the pendency of the appeal.

Learned counsel for the petitioners contends that order Annexure P/2 dated 04.04.2019 of the learned Addl. Sessions Judge, Bathinda could not be complied with by the applicant/petitioner No.2 herein by furnishing bail bonds and surety bonds or for that matter by depositing 20% of the cheque amount due to pendency of some other case in which the applicant was in custody. However, the applicant's mother having died on 30.04.2020, the applicant, who was in custody in another case i.e. FIR No.154 dated 12.07.2018 for offences under Sections 419, 420, 465, 467, 468, 471, 199, 200 and 120-B IPC registered at Police Station Civil Lines, Bathinda, vide order Annexure P/3 in CRM No. M-44996 of 2019 in case titled as BhagwanDass @ Tony v. State of Punjab, was released on bail to attend last rituals of his mother scheduled for 18.05.2020 for which he was to be released on 08.05.2020 at 11.00 am and was to surrender to the jail authorities on 22.05.2020 by 2.00 p.m. However, due to pendency of the instant case and inability to comply with order Annexure P/2 dated 04.04.2019 passed by the learned Additional

Sessions Judge, Bathinda, the applicant/petitioner No.2 herein could not be released on bail. In the circumstances, the applicant/petitioner No.2 herein seeks liberty to comply with order Annexure P/2 dated 04.04.2019 passed by the learned Additional Sessions Judge, Bathinda and to furnish bail bonds/surety bonds as also to comply with the other requirements of the aforementioned order.

Notice of motion.

Mr. Rishab Gupta, Advocate puts in appearance in CRM – M12441 of 2020 and accepts notice on behalf of the respondent.

Issue notice in CRM-M-12434 of 2020 for 28.05.2020.

List CRM – M- 12441 of 2020 along with CRM-M-12434 of 2020 on the adjourned date.

In the meantime, in view of the position as noted above, as an interim measure, time for complying with order Annexure P-2 dated 04.04.2019 passed by the learned Additional Sessions Judge, Bathinda is extended upto 20.05.2020. It is further clarified that the orders in the instant case are subject to orders passed in Annexure P-3 in FIR No.154 dated 12.07.2018 for the offences under Sections 419, 420, 465, 467, 468, 471, 199, 200 and 120-B IPC registered at Police Station Civil Lines, Bathinda and further would be eventually subject to orders to be passed at the time of final hearing in the instant case.

Photocopy of this order be placed on the file of other connected case.”

In view of the order dated 18.05.2020, learned counsel for the petitioner states that the bail bonds/ surety bonds were furnished on 19.05.2020.

The limited prayer in the present petitions was for extension of time to furnish bail bonds, which was permitted vide order dated 18.5.2020. The petitioner has since furnished the bail bonds/surety bonds. The petitions are hence disposed off as having been rendered infructuous.

Photocopy of this order be placed on the connected case file.

(ALKA SARIN)
JUDGE

28.05.2020
Manpreet

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No