

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

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CRR-407-2022 (O&M)

Date of Decision: 06.04.2022

DALIP KUMAR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Yogesh Kumar Saini, Advocate,
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

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VINOD S. BHARDWAJ, (Oral)

Instant petition has been filed against the impugned order dated 06.01.2022 passed by the learned Addl. Sessions Judge, Ludhiana, whereby the Addl. Sessions Judge, Ludhiana has directed the petitioner to deposit an amount of Rs.2,00,000/- while admitting his appeal no.CRA-14 of 2022 and suspending his sentence.

Learned counsel appearing on behalf of the petitioner submits that while dealing with the application submitted by the petitioner under Section 389 Cr.P.C. for suspension of sentence, the Additional Sessions Judge, Ludhiana has ordered the suspension of sentence of the petitioner subject to depositing the fine amount of Rs.2,00,000/- as well as furnishing bail bonds in the sum of Rs.25,000/- with one surety in the like amount.

Learned counsel contends that the condition of depositing fine as a part of condition for suspension of sentence is onerous as his appeal is pending and the issue as regards the conviction of the petitioner is still subjudice. He further contends that enforcement of the said condition is

harsh and onerous on the petitioner. Furthermore, it is contended that as a result of inability of the petitioner to deposit the huge amount of fine towards condition of suspension of sentence, he is unable to avail the benefit of the order. He further argues that it is a well settled position of law that a Court should not impose such onerous conditions as are likely to deprive a person of the fruit of the order so passed in his favour.

Mr. Karanbir Singh, AAG, Punjab, however, controverts the submissions of the counsel for the petitioner and contends that the requirement prescribed by the Court has to be seen to the satisfaction of the concerned Court. He further submits that the condition so imposed upon the petitioner cannot be said to be harsh and onerous and that the petitioner having indulged in the case under Excise Act, imposition of such condition cannot be held to be bad.

I have heard the counsel for respective parties.

Upon hearing the counsel for the respective parties, I am of the opinion that since the appeal of the petitioner is pending and the culpability of the offence is yet to be determined by the Court, therefore, any such onerous condition, as is likely to deprive the accused of the benefit of the order granting suspension of sentence, should not normally be imposed by a Court while granting a benefit. The mere fact that the applicant-petitioner has not been able to avail the suspension of sentence despite the order passed in his favour on 06.01.2022, establishes that the condition is harsh and onerous on the petitioner.

In view thereof, the instant petition is allowed and the order dated 06.01.2022 passed by the Additional Sessions Judge, Ludhiana is

partly modified to the extent whereby the petitioner has been directed to deposit the fine as a pre-condition for suspension of sentence. The rest of the conditions as imposed by the learned Addl. Sessions Judge, Ludhiana shall remain the same.

(VINOD S. BHARDWAJ)
JUDGE

06.04.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No