

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

CRM-M-21525-2023

Date of decision : 29.04.2023

Arpinder Singh Pannu and another

.....Petitioners

Versus

Deepak Dairy

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Rahul Sharma-I, Advocate for the petitioners

AMAN CHAUDHARY, J.

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for setting aside the order dated 21.01.2023, Annexure P-3, passed by the learned Additional Sessions Judge, Gurugram, directing the petitioner to deposit 20% of the compensation amount within a period of 60 days.

2 Learned counsel for the petitioners would fairly submit that in view of the judgment of Hon'ble The Supreme Court of India in **Surender Deswal @ Col. SS Deswal vs. Virender Gandhi** 2019(3) RCR (Crl) 186, he would not be able to persuade this Court for setting aside the order dated 21.01.2023 passed by the lower appellate Court. However, he prays for grant of 30 days more time to the petitioner, in terms of Section 148(2) of NI Act, to arrange the huge amount of Rs.40 lakhs, as directed to be deposited, vide the impugned order.

3. In view of the order being proposed to be passed, notice is not

required to be issued to the respondent, the same being not prejudicial to his rights.

4. Heard.

5. Apparently, the appeal filed by the petitioners has been admitted by the lower appellate Court and their sentence has been ordered to be suspended subject to furnishing bail/ surety bonds in the sum of Rs.25,000/- with one surety in the like amount. Further directed that they shall also deposit 20% of the amount of compensation within a period of sixty days from the date of order, in view of amended Section 148 of NI Act.

6. The issue raised in the present petition stands covered against the petitioners by the dictum of Hon'ble The Supreme Court of India in the cases of **Surender Deswal** (supra) (2019) and **Surender Singh Deswal @ Col. SS Deswal vs. Virender Gandhi and another** (2020) 2 SCC 514, whereby while interpreting the provision of Section 148 of NI Act, it was explicated that the appellate Court, as a matter of rule has to by way of power vested in it, direct an appellant, who has filed an appeal against the judgment of conviction under Section 138 NI Act and the order of sentence, to deposit a minimum of 20% of the fine or compensation so awarded by the trial Court and that due to non-compliance of the said condition of deposit of the amount, the suspension of sentence stands vacated, is well within its jurisdiction.

7. That in order to consider the prayer made by learned counsel for the petitioners for grant of additional time, it would be apposite to make

a reference to Section 148 of NI Act, which reads thus:

“148. Power of Appellate Court to order payment pending appeal against conviction.

1. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty percent of the compensation awarded by the trial Court:

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A.

2. The amount referred to in sub-section(1) shall be deposit deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

3. xx xx”

8. The petitioner at the outset has expressed his willingness to deposit the 20% of the amount of compensation as directed by the lower first appellate Court, which being a large amount, he has prayed for grant of 30 days more time for the said purpose.

9. Considering the peculiarity of the facts and circumstances of the case, the reason of the petitioner to seek more time to deposit the amount as directed by the lower appellate Court and it being permissible as per the *ibid* provision, the petitioner is, in the interest of justice, ordered to be

allowed 30 days more time to deposit the amount of compensation as directed by the lower appellate Court. It is clarified that in case, the petitioner fails to deposit the said amount within the aforesaid period, the lower appellate Court shall be at liberty to proceed against the petitioner in accordance with law.

10. Accordingly, the present petition is disposed of.

29.04.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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