

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

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**CRM-M-30387-2023 (O&M).
Date of Decision: 16.06.2023.**

Dimple**...Petitioner****Versus****State of Haryana and another****...Respondents****CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ****Present:** Mr. Parminder Singh, Advocate, for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

VINOD S. BHARDWAJ. J (ORAL)

The instant petition has been filed for seeking concession of regular bail/suspension of sentence in Appeal No.CRA-67 of 2020 instituted on 07.03.2020 titled as 'Dimple Vs. Satish' in which the application seeking regular bail/suspension of sentence was dismissed by the Additional Sessions Judge, Karnal vide order dated 03.05.2023/09.05.2023.

Learned counsel for the petitioner contends that the petitioner was convicted vide judgment dated 07.02.2020 and sentenced vide order dated 12.02.2020 passed by the Judicial Magistrate First Class, Karnal in proceedings under Section 138 of the Negotiable Instruments Act. Additionally, the petitioner was also directed to pay compensation of Rs.6 lakhs to the complainant within a period of 60 days.

Aggrieved of the aforesaid judgment of conviction and order of sentence, the petitioner preferred an appeal before the Sessions Judge, Karnal. The sentence of the petitioner/appellant was ordered to be suspended as his health condition was not good. The petitioner remained admitted in PGI during different periods. He could not appear before the Appellate Court on 17.12.2021 i.e. the date fixed, due to his above said health condition and also could not deposit 20% of the said amount. He was accordingly declared as a proclaimed person vide order dated 17.02.2023.

Learned counsel for the petitioner contends that the petitioner was not aware that his counsel had already passed away on 21.07.2022 and he came to know about the same only after discharge. An application for bail was thereafter moved by the petitioner before the Additional Sessions Judge, Karnal. The same was dismissed vide order dated 03.05.2023. It is not disputed that the 20% of the amount had not been deposited by the petitioner and he also absented from the proceedings for a period of 01 year and 03 months.

Learned counsel for the petitioner further submits that the pre-deposit of 20% of the amount has already been made by him. He submits that the petitioner is in custody since 01.05.2023 and that his failure to appear was on account of intervening circumstances rather than the willful and intended to delay the pending appeal.

Learned State counsel do not dispute the above said factual aspect and confirms that 20% of the amount has already been deposited by the petitioner. The appeal is still pending before the Appellate Court.

I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

Taking into consideration the circumstances as noticed above and also the fact that the petitioner was sentenced to undergo rigorous imprisonment for a period of 18 months by the trial Court and that 20% pre-deposit as ordered by the Appellate Court has already been deposited, I deem it appropriate to allow the instant petition. Accordingly, the instant petition is allowed and the petitioner is ordered released on bail/remaining sentence is ordered to be suspended subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

However, taking into consideration that the petitioner had absented himself for a period of more than 01 year and 03 months resulting in delay of the proceedings in the appeal before the Appellate Court, it is directed that the petitioner shall deposit a cost of Rs.10,000/- with the District Legal Services Authority, Karnal.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

June 16, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No