

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

CRM-M-31076-2023

Date of decision : 28.06.2023

ASHISH BANSAL

...Petitioner

Versus

KRISHAN GOPAL

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ajay Kumar Kansal, Advocate
for the petitioner.

HARSH BUNGER, J.

The petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, *inter alia* seeking extension of time for depositing 20% of the cheque amount, as directed by lower Appellate Court vide impugned order dated 26.04.2023 (Annexure P-3), within a period of 60 days.

2. Briefly, the respondent herein (Krishan Gopal) filed a complaint under Section 138 of the Negotiable Instruments Act (here-in-after referred to as the 'N.I. Act') against the present petitioner (Ashish Bansal) in respect of dishonor of cheque, amounting to Rs.10 lakhs.

3. The learned trial Court, vide judgment of conviction dated 27.03.2023, held the petitioner guilty under Section 138 of the N.I. Act and vide a separate order of sentence dated 29.03.2023 (Annexure P-1), he was sentenced to undergo simple imprisonment for a period of six months and also to pay a compensation of Rs.10 lakhs to the respondent-complainant within a period of six months.

4. Aggrieved, the petitioner herein, preferred an appeal before the lower Appellate Court, vide Annexure P-2, against the said judgment of conviction dated 27.03.2023 and order of sentence dated 29.03.2023 passed by learned Sub Divisional Judicial Magistrate, Meham; whereupon, the lower Appellate Court, vide order dated 26.04.2023 (Annexure P-3), directed the petitioner to deposit 20% of the compensation amount within a period of 60 days and the same was made as a condition of bail.

5. Thereafter, the petitioner has filed **CRM-M-26228-2023** before this Court, challenging the aforesaid order dated 26.04.2023 passed by the learned lower Appellate Court; however, the same was also dismissed vide order dated 22.05.2023.

6. Now, the petitioner has filed the instant petition by submitting that he had tried his level best to arrange the money in terms of order passed by the learned lower Appellate Court; however, he was able to collect only sum of Rs.1,15,000/-. It is submitted that the petitioner is a patient of *Cholelithiasis/Gallstones* since long (having 24 mm stone), all of sudden developed SEPSIS (a life-threatening disease due to extreme reaction of body to an infection) and had to be admitted to hospital on 25.05.2023 and was discharged on 05.06.2023. It is further submitted that due to aforesaid treatment, the petitioner had to spend a sum of Rs.83,518/-, besides special diet and other expenditures. Learned counsel for the petitioner submits that though the petitioner has been discharged from the hospital on 05.06.2023 but still, his condition is not well and is seeking regular treatment from General Hospital, Jind and from PGIMS, Rohtak.

7. With the afore-said submissions, learned counsel for the petitioner submits that the petitioner is ready and willing to deposit 20% of

the compensation amount as directed by the learned lower Appellate Court vide order dated 26.04.2023; however, he seeks extension of 60 days' time to do the needful, in view of his medical health and financial constraint.

8. I have considered the afore-said contentions raised by learned counsel for the petitioner and have perused the paper book as well as impugned order dated 26.04.2023 (Annexure P-3) passed by learned lower Appellate Court.

9. Section 148 of the N.I. Act, 1881 reads as under :-

[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 per cent. of the fine or 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 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) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as

published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, 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 complainant.]

10. A perusal of sub-Section (2) of Section 148 of the N.I. Act provides that the amount referred to in sub-Section (1) of Section 148 of the N.I. Act, is to be deposited within a period of 60 days from the date of passing of order or within such further period, not exceeding 30 days, as has been directed by this Court, on sufficient cause being shown by the petitioner.

11. In view of the afore-mentioned facts and circumstances, I am of the considered view that since the petitioner is ready and willing to deposit the amount as directed by learned lower Appellate Court vide order dated 26.04.2023 (Annexure P-3) and on account of his medical condition, he could not deposit the same within the time period granted by the learned lower Appellate Court; accordingly, the petitioner is granted four weeks' more time from today to comply with the directions given by learned lower Appellate Court; whereby, he was directed to deposit 20% of the cheque amount as compensation to the respondent-complainant.

12. The petition stands disposed of accordingly.

13. All pending application/s, if any, shall stand closed.

June 28th, 2023

gurpreet

(HARSH BUNGER)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No