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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40567-2023(O&M)

Date of decision:-29.08.2023

Sunil Bajaj and another

...Petitioners

Versus

Neeraj Ahuja and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Rajesh Bansal, Advocate
for the petitioners.

SUVIR SEHGAL, J.(ORAL)

CRM-36197-2023

For the reasons given in the application, it is allowed.

Medical record of petitioner No.1 is permitted to be placed on record as
Annexure P7.

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1. By way of present petition filed under Section 482 Cr.P.C.,
petitioners have *inter alia* assailed order dated 29.05.2023, Annexure
P1, passed by learned Additional Sessions Judge, Panipat in Criminal
Appeal No.195 of 2023 titled as "*Sunil Kumar Versus Neeraj Ahuja*" to
the extent the petitioners have been directed to deposit 20% of the
compensation amount.

2. Counsel for the petitioners submits that the petitioners had
business dealings with the complainant/respondent, who filed a
complaint under Section 138 of Negotiable Instruments Act, 1881 (for

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short “the NI Act”) on the allegation that the petitioners had issued two cheques of Rs.20 lakhs and Rs.19,50,000/- respectively, in discharge of their liability, which were dishonoured on account of ‘Insufficient Funds’. After serving a legal notice, complaint, Annexure P2, was instituted. He submits that by judgment and order dated 24.04.2023/29.04.2023, Annexure P3, petitioners were held guilty for the offence and sentence of rigorous imprisonment of one year was imposed and they were directed to pay compensation of Rs.60 lakhs to the complainant under Section 357(3) Cr.P.C. for harassment caused to him. Counsel submits that this judgment has been challenged in appeal, Annexure P4, which is pending before the Appellate Court for 22.09.2023. Counsel submits that by virtue of the impugned order, appeal has been admitted for hearing but on the application for suspension of sentence, the appellants have been directed to deposit 20% of the compensation amount of Rs.60 lakhs within a period of 60 days from the date of the order, failing which, it has been directed that bail shall be cancelled and the order of suspension of sentence shall be withdrawn.

3. By making a reference to the medical records Annexures P5 to P7, counsel submits that the petitioner No.1, who is widower, is a chronic heart patient and under medical treatment. He submits that petitioner has two young daughters, one of them, who is a teenager, has been detected with cancer and has undergone chemotherapy from Rajiv Gandhi Cancer Institute, Rohini, Delhi. He asserts that the petitioners are facing financial hardship and the direction passed by the Appellate Court is not only harsh but even the time period granted is very little.

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4. I have considered the submissions made by counsel for the petitioners.

5. Section 148 of the NI Act, which was inserted by Act No.20 of 2018 w.e.f. 01.09.2018, came up in discussion before the Supreme Court in *Surender Singh Deswal @ Col. S.S. Deswal and others Versus Virender Gandhi and another (2019) 11 SCC 341.*

Noticing the objective behind the introduction of the provision in the NI Act, Apex Court has construed the provision to be a mandatory and has held that the Appellate Court is bound to order deposit of a minimum of 20% of compensation or fine within a period of 60 days. While interpreting the provision, the Court observed that the period can be further extended by a period not beyond 30 days on a sufficient cause being shown by the appellant.

6. In view of the above interpretation, there is no scope for interference in the order passed by the Appellate Court. However, noticing that petitioner No.1 as well as his daughter have serious medical issues, in terms of Section 148(2) of NI Act, this Court grants extended period of 30 days to the petitioners to deposit the amount.

7. Accordingly, petition is disposed of with a direction that the petitioners are granted another period of 30 days from today to deposit the amount in compliance of the order of the Appellate Court.

(SUVIR SEHGAL)
JUDGE

29.08.2023
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No