

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

130.

CRM-M No.57222 of 2023

Decided on:16.11.2023

Sanjay Kumar

... Petitioner

Versus

HDFC Bank

... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Varun Katyal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The petitioner has approached this Court under Section 482 Cr.P.C. praying for setting aside the order dated 02.09.2023 (Annexure P-5) passed by the learned Additional Sessions Judge, Mansa vide which application filed by the petitioner herein to deposit 20% of the compensation amount as awarded by the trial Court and to furnish bail bonds has been dismissed, with a further prayer to set aside order dated 16.08.2023 declining the exemption from personal appearance to the petitioner.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for a period of one year vide judgment and order of sentence dated 01.03.2023 passed by the Sub Divisional Judicial Magistrate, Sardulgarh. He was also directed to pay compensation to the tune of ₹2 lakhs to the respondent-Bank under Section 357 (3) Cr.P.C. In the appeal preferred against the judgment dated 01.03.2023 by the petitioner, the Appellate Court while admitting the said appeal, suspended the sentence of imprisonment imposed upon the petitioner herein during the pendency of the

appeal on his furnishing personal bond and one surety bond each in the sum of ₹50,000/- and further subject to depositing 20% of the compensation amount to the satisfaction of the learned trial Court/Duty Magistrate within 15 days from the date of order. Thereafter on 16.08.2023, an application for exemption from personal appearance was moved by the petitioner before the Court, which was dismissed and the petitioner was ordered to be summoned by way of non-bailable warrants of arrest for 02.09.2023. On 02.09.2023, the petitioner had filed an application seeking more time to furnish bail bonds and deposit 20% amount of compensation as he suffered huge losses due to floods, however, the Appellate Court dismissed the said application and presence of the petitioner herein was ordered to be secured by way of non-bailable warrants of arrest. Aggrieved by orders dated 16.08.2023 and 02.09.2023, the petitioner has approached this Court by way of instant petition.

3. Learned counsel for the petitioner *inter alia* contends that deposit of 20% of the compensation amount under Section 148 of the NI Act is not condition precedent for suspension of sentence and therefore, non-deposit of the same ought not to be a ground to pass impugned orders dated 16.08.2023 and 02.09.2023. It is further contended that the petitioner had offered to deposit 20% of the compensation amount on 02.09.2023, which offer was not accepted by the Appellate Court and therefore, the impugned orders are liable to be set aside.

4. I have heard learned counsel for the petitioner and perused the paper book with his able assistance.

5. A perusal of the order dated 27.03.2023 (Annexure P-2) passed by the Appellate Court while admitting the appeal preferred by the petitioner indicates that the sentence of rigorous imprisonment for a period of 1 year imposed upon the petitioner was suspended on his furnishing personal bond and one surety

bond, each in the sum of ₹50,000/- and subject to depositing of 20% of the imposed compensation amount within 15 days from the date of order i.e. 27.03.2023, failing which the order passed was ceased to exist. Therefore, deposit of 20% of the compensation amount was a condition precedent. However, since the petitioner herein is now ready and willing to comply with the said condition of deposit of 20% of the compensation, this Court deems it appropriate to allow one more opportunity to him to do the needful. Therefore, in the interest of justice, the petitioner is directed to appear before the learned Appellate Court on or before 04.12.2023 and on his doing so, the Court concerned shall admit him to bail subject to furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate, along with costs of ₹5,000/- for wasting precious time of the Court to be deposited with the District Legal Services Authority, Mansa.

6. The instant petition is allowed in above terms, without issuing notice to the respondent to save the precious time of the Court and to avoid litigation expenses to be incurred on the part of the respondent.

7. Needless to say, in case the petitioner fails to comply with the abovesaid direction, the order passed by this Court today shall stand automatically vacated.

(HARPREET SINGH BRAR)
JUDGE

November 16, 2023
Pankaj*

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