

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

**CRM-M No. 55901 of 2023 (O&M)
Date of Decision: 01.03.2024**

Hardeep Singh and another
..... Petitioners

Versus

State of Punjab
..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vishal Thakur, Advocate,
for the petitioners.

Mr. Siddharath Sandhu, Assistant Advocate General, Punjab
for the respondent.

HARKESH MANUJA, J.

The petitioners, by way of present petition filed under Section 482 Cr.P.C., seek modification of the order dated 09.10.2023 (Annexure P-4) passed by the learned Additional Sessions Judge, Hoshiarpur, vide which, the condition has been imposed upon the petitioners to deposit the 50% of the fine amount, while granting suspension of sentence to them in case FIR No. 95 dated 16.09.2018, under Sections 61/1/14 of Punjab Excise Act, 2014, registered at Police Station, Haryana, District Hoshiarpur.

[2] Having been arrayed as accused in the FIR (supra), upon trial, the petitioners were convicted vide judgment dated 12.09.2023 and sentenced vide order of even date passed by the learned JMIC, Hoshiarpur, to undergo simple imprisonment for a period of two (02) years alongwith fine of Rs. 2,00,000/- each and in default, to further undergo simple imprisonment for one month each.

[3] Aggrieved thereof, the petitioners filed first appeal, at the time of admission, while considering their application for suspension of remaining sentence, learned Additional Sessions Judge, Hoshiarpur, passed a detailed order on 09.10.2023 with the following relevant portion:-

“ Therefore, observing that the decision of the appeal is going to take time, for which period, the appellant cannot be allowed to languish in jail, pending appeal, I deem it proper to suspend the sentence of 2 years S.I. imposed by the Ld. trial Court to the appellant during the pendency of the appeal, subject to the deposit of half the fine amount in the Ld. trial Court and in that eventuality, the appellant is ordered to be admitted to bail in a sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the Ld. trial Court/Duty Magistrate and only then, 50% of the fine shall stand suspended during the pendency of the appeal.”

[4] Learned counsel for the petitioners submits that the petitioners being poor persons are not in a position to deposit the amount of fine and for the said reason, they have not even been able to avail the benefit of order of suspension granting in their favour, for the past almost five months.

[5] Learned State Counsel opposes the prayer made in the petition, while submitting that the discretion exercised by the First Appellate Court in terms of Section 389 Cr.P.C. as regards issuance of directions for deposit of 50% fine amount, warrants no interference in the given facts.

[6] I have heard learned counsel for the parties and gone through the paper-book.

[7] In the given facts and circumstances of the present case, a direction to deposit of half of the fine amount appears to be onerous, thereby causing serious prejudice to the rights of the petitioners. Apparently, the

petitioners have not been able to draw the benefit of suspension of sentence granting to them for the past almost five months, having failed to deposit 50% of the fine amount. In the wake of poor financial condition of the petitioners, the directions issued for depositing the 50% of fine amount, has, in fact, denied the benefit to them of their remaining sentence being suspended, thereby making it to be unjust.

[8] Accordingly, in view of the totality of facts and circumstances, the condition of deposit of half the fine amount, as ordered by the learned Additional Sessions Judge, Hoshiapur, vide impugned decision dated 09.10.2023 (P-4), is modified to the extent of depositing only 5% of the fine amount by the petitioners.

[9] **Disposed off** accordingly.

March 01, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No