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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6412/2024**
RAGHUVENDER RAGHAVPetitioner
Through: M. Pramod Kumar Tripathi, Mr.
Aditya Dogra and Mr. Gulab Singh,
Advs.

versus

STATE OF NCT OF DELHI & ANR.Respondents
Through: Ms. Manjeet Arya, APP for the State.

CORAM:
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA
ORDER
% **22.08.2024**

CRL.M.A. 24533/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 6412/2024 AND CRL.M.A. 24532/2024

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioner for recalling of order dated 29.07.2024 passed by learned ASJ, Patiala House Court and order dated 31.07.2024 passed by learned JMFC, Digital Court No. 1 (NI Act), Patiala House Court whereby NBWs were issued against the petitioner in compliance of order dated 29.07.2024.
2. Issue notice. Learned APP for the State appears on advance notice and accepts notice.
3. Learned counsel of petitioner submits that petitioner had preferred an appeal under Section 374 (3) against judgment dated 15.05.2024 and order on sentence dated 06.06.2024 passed by learned MM whereby petitioner



was sentenced to undergo Simple Imprisonment (SI) for 1 year and with fine of Rs. 40 lakhs (in default of payment of fine to undergo SI for 4 months) for offence punishable under Section 138 NI Act. He submits that since petitioner could not furnish the surety bond till 4:00 PM on 29.07.2024, learned ASJ directed the JMFC to take appropriate steps for securing the presence of petitioner. Further the case was directed to be listed on 07.09.2024. In compliance to said order, NBWs are stated to have been issued by learned JMFC (NI Act), vide order dated 31.07.2024 for securing presence of petitioner/appellant on 27.08.2024.

4. Perusal of the order dated 29.07.2024, reflects that counsel for appellant/petitioner initially appeared on 29.07.2024 at 2:00 PM before the learned Appellate Court and sought time to furnish bail bonds, though no specific order exists on record suspending the sentence of appellant/petitioner during pendency of appeal. Further the matter was kept at 4:00 PM at request of appellant/petitioner. Since counsel for petitioner failed to appear before the learned Appellate Court at 4:00 pm, the impugned order was passed directing the learned MM to take steps for securing the presence of the appellant/petitioner. In compliance to aforesaid order dated 29.07.2024, learned JMFC issued NBWs vide order dated 31.07.2024 as a follow up to secure the presence of the petitioner since he failed to appear before the learned Appellate Court.

5. Considering the totality of facts and circumstances, the impugned order dated 31.07.2024 directing the issuance of NBWs against the petitioner is set aside subject to appearance of petitioner before the learned Appellate Court i.e. 07.09.2024.

Further application of appellant/petitioner for suspension of sentence



and grant of bail during pendency of the appeal shall be considered by the learned Appellate Court in accordance with law. In case the petitioner fails to appear on 07.09.2024 before the learned Appellate Court, necessary coercive steps may be taken in accordance with law.

Petition is accordingly disposed of.

A copy of this order be forwarded to learned JMFC as well as to learned Appellate Court for information and compliance.

ANOOP KUMAR MENDIRATTA, J

AUGUST 22, 2024

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