

220(A)

CRR-365-2020 (O&M)

**KAMALJIT SINGH
VS
STATE OF PUNJAB AND ANOTHER**

Present: Mr. Ramesh Chand Sharma, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Naresh Gopal Sharma, Advocate and
Mr. Arjun Kapur, Advocate for
Mr. Mehardeep Singh, Advocate
for respondent No. 2.

Learned counsel for the petitioner has submitted that a coordinate Bench of this Court after considering that there were arguable points in the present revision petition, was pleased to issue notice of motion on 02.07.2021.

It has been argued that Varinderpal Singh i.e. CW-1 who has already appeared on behalf of respondent No. 2-complainant and is authorised person, has stated in his cross-examination that he could not tell on what dates the cattle feed was supplied to the petitioner or that how much was supplied and at what rate and on which dates the accused had made payment. It is also submitted by the said witness that the body of the cheque is with blue pen and the signatures on the column of the cheque is with black pen. The relevant portion of the said evidence is reproduced hereinbelow:-

“The Audit of the account is done by Audit Inspector. It is to be done by Audit Inspector. It is to be done by 30th September of every year. I cannot tell that when we had

done the last final audit report. We did not supply the cattle feed on credit, do the same on cash. We supply the cattle feed on cash, draft and cheque which is cleared. Volunteered that what the branch holders do, I don't know. As per the policy of societies, the material is being supplied on credit. There is a limit to supply the material to the societies on credit. But I cannot tell that how much is that limit. I cannot tell without the record that how much cattle feed was supplied to the accused. I also cannot tell the per ton rate of the cattle feed. I also cannot tell that on which dates the cattle feed was supplied to the accused. I cannot tell without the record. I also cannot tell the mode of transportation that vide which the accused was supplied the cattle feed. It is correct that every transportation is entered in the gate of godown. I also cannot tell this without the record that on which dates, the accused has made the payments. The cheque has not been filled in my presence. I cannot tell that who has filled the cheque. Volunteered that the signatures belong to the person who has filled up the cheque. The body of the cheque is with the blue pen and the signatures on the column of the cheque is with black pen. It is wrong that the body of the cheque and signatures are with different handwriting.”

Learned counsel for respondent No. 2 has opposed the said submission and has stated that the impugned order is legal and valid.

After hearing learned counsel for the parties, this Court is of the view that there are arguable points in the revision petition.

Admitted.

CRM-4383-2020

This application has been filed under Section 397 Cr.P.C. for suspension or sentence of the applicant-petitioner namely, Kamaljit Singh, during the pendency of the present revision petition.

Learned counsel for the applicant-petitioner has submitted that the applicant-petitioner was convicted on 27.11.2019 and has been sentenced to undergo rigorous imprisonment for a period of 01 year for the offence under Section 138 of the NDPS Act and out of the said period, he has undergone an actual custody period of 4 months and 11 days and also has earned remission of 20 days and thus, his total custody period is 05 months and 1 day. It is submitted that the revision petition being of the year 2020, is not likely to be heard in the near future, moreso, in view of the present COVID-I9 pandemic.

It has been argued that Varinderpal Singh i.e. CW-1 who has already appeared on behalf of respondent No. 2-complainant and is authorised person, has stated in his cross-examination that he could not tell on what dates the cattle feed was supplied to the petitioner or that how much was supplied and at what rate and on which dates the accused had made payment. It is also submitted by the said witness that the body of the cheque is with blue pen and the signatures on the column of the cheque is with black pen.

Learned State counsel alongwith learned counsel for the complainant have opposed the present application for suspension of sentence.

This Court has heard learned counsel for the parties and has perused the paperbook.

Keeping in view the abovesaid facts and circumstances moreso, the fact that the present applicant-petitioner has already undergone an actual custody period of 4 months and 1 days and also has earned remission of 20 days and thus, his total custody period is 05 months and 1 day out of the total custody period of 1 year and there are arguable points in the revision petition and the revision petition being of the year 2020, is likely to take time, moreso in view of the present pandemic situation, the application is allowed and the sentence imposed upon the applicant-petitioner, namely, Kamaljit Singh shall remain suspended during the pendency of the revision petition and he is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of the concerned Illaqa Magistrate/Chief Judicial Magistrate/Duty Magistrate and subject to him not being required in any other.

21.02.2022

Mehak

**(VIKAS BAHL)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No