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Ravinder Kumar @ Ravinder Garg and another ...Petitioners

Versus

Vikas Madaan ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Onkar Rai, Advocate
for the petitioners.

Mr. Subhashish Kukreti, Advocate
for the respondent.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioners under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) seeking quashing of order dated 05.12.2024 (Annexure P-6), passed by the Court of learned Additional Sessions Judge, Bathinda in Criminal Appeal No. 374 of 2024, titled as ***Ravinder Kumar @ Ravinder Garg vs. Vikas Madaan***, whereby, non-bailable warrants have been issued against the petitioner and also for quashing of order dated 16.08.2024 (Annexure P-5), passed by the same Court, whereby while suspending the sentence of the petitioner, he had been directed to deposit 20% of the compensation amount as awarded by the learned trial Court within a period of 60 days from the date of passing the order.

2. It is argued by learned counsel for the petitioners that the impugned orders are not sustainable in the eyes of law. The sentence of the petitioner was suspended by the learned appellate Court, vide impugned order dated 16.08.2024, subject to his furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount. He was also directed to deposit 20% of the compensation amount as awarded by the learned trial Court within a period of 60 days. However, the petitioner could not furnish bonds before the Court concerned. He was granted several extensions to do the needful. Later, it came to light that the petitioner was in custody in connection with FIR No. 90 of 2021 and that is why he could not furnish the bonds. However, still the learned appellate Court did not accord him further opportunity to furnish bail bonds and issued non-bailable warrants against him. It is further argued that the learned appellate Court, while giving direction to the petitioner to deposit 20% of the compensation amount, vide order dated 16.08.2024, failed to consider the fact that the deposit of 20% of the compensation amount was not absolute requirement for suspension of sentence and this condition was to be imposed in exceptional circumstances. Hence, it is urged that the impugned orders passed by the learned appellate Court are liable to be set aside. To fortify his argument, he has placed reliance upon the judgments passed by the co-ordinate Benches of this Court in ***Abdul Rashid vs. Kuldeep Singh, CRM-M-3878-2024***, decided on 24.01.2024, ***Sarif Mohammad @ Sareef Mohammad vs. Swaran Singh and another, CRM-M-20840-2024***, decided on 26.04.2024, ***Vikram Singh and another vs. Nasar and another, CRM-M-6508-2024***, decided on 08.02.2024 and ***Sahil Puri vs. Sonu Kumar and another, CRM-M-2503-2024***, decided on 18.01.2024.

3. Learned counsel for the respondent has argued that there is no illegality or infirmity in the impugned orders. The petitioner had not complied with the directions given by the learned appellate Court. He has neither furnished bail bonds nor has deposited 20% of the compensation amount so far. Hence, it is urged that the petition is liable to be dismissed.

4. This Court has heard the rival submissions.

5. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction dated 11.07.2024, passed in a complaint filed under Section 138 of N. I. Act, had held the petitioner guilty for commission of offence punishable under the aforementioned section and apart from awarding sentence to undergo rigorous imprisonment for a period of two years, had also directed him to pay compensation to the tune of cheque amount i.e. Rs.46,20,000/-. The petitioner challenged the order passed by the learned trial Court by filing aforesaid appeal before the learned appellate Court and the appellate Court, vide impugned order dated 16.08.2024, suspended the sentence of petitioner, subject to his depositing 20% of the compensation amount with the trial Court and on furnishing bail bonds as mentioned above.

6. So far as the challenge laid by the petitioner to the order dated 05.12.2024 is concerned, admittedly, his sentence was suspended by the learned appellate Court on 16.08.2024 and he was ordered to be released on bail on furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount. However, since he was in custody in connection with aforementioned FIR, he could not do so, which ultimately resulted into passing of order dated 05.12.2024, whereby non-bailable warrants had been issued against him. In the considered opinion of this Court, in the peculiar

circumstances as emanating from the record, the petitioner deserves to be granted one more opportunity to furnish the bail bonds.

7. Now coming to the next prayer made by the petitioner, wherein he has sought quashing of order dated 16.08.2024, whereby the learned appellate Court had directed him to deposit 20% of the compensation amount as awarded by the learned trial Court within a period of 60 days. Reference in this regard can be made to the authority cited as ***Jamboo Bhandari vs. M. P. State Industrial Development Corporation Ltd. And others : (2024) 1 SCC (Cri) 90***, wherein it was observed by Hon'ble Supreme Court that deposit of 20% of the compensation amount was not an absolute requirement for suspension of sentence, if the Court is satisfied that the condition of such deposit will be unjust or imposing of such a condition will amount to deprivation of the right of appeal of the appellant. This proposition of law is shown to have been followed by the co-ordinate Benches of this Court in ***Abdul Rashid's*** case (supra) as well as afore cited other similar cases. In the instant case, while imposing condition of deposit of 20% of compensation amount, the learned appellate Court is not shown to have given any opportunity to the petitioner to make submissions regarding the exceptional circumstances warranting requirement of waiver of depositing of 20% of compensation amount and is shown to have imposed the said condition without the same. Therefore, keeping in view the settled proposition of law to the effect that the appellate Court was firstly required to consider as to whether the instant case falls within the exceptions warranting grant of suspension of sentence without imposing condition of deposit of 20% of compensation amount/fine, the impugned order dated

16.08.2024 cannot be stated to be sustainable to the extent to which the condition of deposit of 20% of the compensation amount was imposed.

8. In view of the discussion made above, the present petition is disposed of. The matter is remanded to learned appellate Court for deciding the same afresh after re-examining the case by granting an opportunity to the petitioner to make submissions regarding exceptional circumstances warranting waiver of requirement of depositing 20% of the compensation amount in pursuance of judgment passed by Hon’ble Supreme Court in *Jamboo Bhandari*’s case (supra) and irrespective of the outcome on the issue of depositing 20% of the compensation amount, the petitioner shall be granted one more opportunity to furnish bail/surety bonds to be imposed upon him by the learned appellate Court.

9. The petitioner is directed to approach the learned appellate Court within a period of 10 days from today.

15.12.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>