



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
CrMMO No. 8 of 2023
Decided on: January 4, 2023

Prem ChandPetitioner
Versus
State of Himachal Pradesh and another ...Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting

For the petitioner: Mr. Sanjay Bhardwaj, Advocate.
For the respondents: Mr. Anoop Rattan, Advocate General with
Mr. Rajan Kahol and Mr. B.C. Verma,
Additional Advocates General, for
respondent No.1.
Nemo for respondent No.2.

Sandeep Sharma, J. (oral)

By way of instant petition, filed under S. 482 CrPC, a very innocuous prayer has been made by petitioner for grant of further two months' time to deposit Rs.75,000 in terms of order dated 20.7.2022 passed by learned Sessions Judge, Sirmaur at Nahan, whereby substantive imposed by learned trial court was stayed subject to deposit of Rs.75,000 and furnishing personal bonds in the sum of Rs.20,000/-with one surety in the like amount by the petitioner-accused within sixty days, as per S. 148(2) of Negotiable Instruments Act.

2. Mr. Rajan Kahol, learned Additional Advocate General appears and waives notice on behalf of the respondent-State.

3. Having regard to the nature of order proposed to be passed in the instant case, this court sees no necessity to issue notice to respondent No.2, as in that event, he shall be burdened with expenses

to engage a counsel to defend him in the instant proceedings, which can be disposed of today itself, as such, same is dispensed with.

4. Having heard learned counsel for the petitioner-accused, this court finds that being aggrieved and dissatisfied with judgment of conviction and order of sentence dated 17.6.2022 recorded by learned Chief Judicial Magistrate, Sirmaur at Nahan in Cr. Complaint No. 324/3 of 2021, accused preferred an appeal before learned Sessions Judge, Sirmaur at Nahan. Alongwith said appeal, he also preferred an application under S.389(1) CrPC for suspension of sentence. Vide order dated 20.7.2022, learned Sessions Judge, Sirmaur at Nahan, Himachal Pradesh suspended substantive sentence imposed by learned trial Court subject to petitioner-accused depositing Rs.75,000 and furnishing personal bonds in the sum of Rs.20,000/- with one surety within sixty days.

5. However, fact remains that despite repeated opportunities, accused failed to deposit Rs.75,000/-. Firstly on 22.9.2022 and then on 6.12.2022, time was extended for depositing amount, however, amount was not deposited as such, learned court below on 22.12.2022 adjourned the matter to 22.2.2023. In the aforesaid background, petitioner has approached this court in the instant proceedings, praying therein for extension of time.

6. Though, taking note of the fact that the fresh prayer for extension of time never came to be refused by the court below, present petition appears to be premature, but since on 22.12.2022, learned

Sessions Judge, without recording request of learned counsel for the petitioner for extension of time fixed the matter for argument on 22.2.2023, there is apprehension in the mind of the accused that he may be arrested on account of judgment of conviction and order of sentence recorded by learned trial Court on account of non-compliance of the order dated 20.7.2022 passed by learned Sessions Judge.

7. In view of above, this court without going into merits of the case deems it fit to grant time till 22.2.2023 on which date, matter is fixed before learned court below, for depositing Rs.75,000/- in terms of order dated 20.7.2022 passed by learned Sessions Judge, failing which no more opportunity would be granted to the accused to deposit Rs.75,000/- in terms of order dated 20.7.2022 and thereafter, complainant would be at liberty to get the judgment of learned trial Court executed in accordance with law. However, till 22.2.2023, accused shall not be arrested in terms of judgment of conviction and order of sentence recorded by learned trial Court. Petition stands disposed of in the afore terms, alongwith all pending applications.

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(Sandeep Sharma)
Judge

January 4, 2023
(Vikrant)