

(2024) 01 SHI CK 0068
High Court Of Himachal Pradesh
Case No: CR.MMO No. 60 Of 2024

Sanjeev Kumar

APPELLANT

Vs

Satish Kumar

RESPONDENT

Date of Decision: Jan. 24, 2024

Acts Referred:

- Negotiable Instruments Act, 1881 - Section 138, 148(2)
- Code Of Criminal Procedure, 1973 - Section 482

Hon'ble Judges: Bipin Chander Negi, J

Bench: Single Bench

Advocate: Parv Sharma

Final Decision: Disposed Of

Judgement

Bipin Chander Negi, J

1. The present petitioner vide judgment of conviction and order of sentence dated 22.08.2023, passed by learned Judicial Magistrate, 1st Class, Rajgarh, District Sirmour, H.P., has been convicted for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and has been sentenced to undergo simple imprisonment for a period of one year and further to pay a fine of Rs.5,00,000/- and in case of default in payment of fine, the petitioner was further directed to undergo simple imprisonment for six months.

2. Feeling aggrieved by the aforesaid judgment of conviction and order of sentence passed by learned Judicial Magistrate, 1st Class, Rajgarh, Sirmour District at Nahan, H.P., the present petitioner had preferred an appropriate appeal before learned Sessions Judge, Sirmour, District at Nahan. Vide order dated 22.09.2023 passed by learned Sessions Judge, Sirmour, District at Nahan in 20-Cr.M/4 of 2023 titled Sanjeev Kumar vs. Satish Kumar, the petitioner had been directed to deposit 20% of fine amount and was required to furnish personal bond in the sum of Rs.25,000/- with one surety in the like amount before learned trial court within a period of 60 days as per Section 148(2) of Negotiable Instruments Act, 1881. Further vide aforesaid order, an undertaking had been given by the petitioner that in the event of failure of his appeal, the petitioner shall surrender before the trial court to receive the sentence.

3. Since the compensation amount could not be deposited within stipulated period, the present petitioner had moved an application before learned Sessions Judge, Sirmour, District at Nahan, for seeking further extension of time. The said application was dismissed vide order dated 08.01.2024 on account of the fact that the statutory period as directed under Section 148(2) of Negotiable Instruments Act, 1881, i.e. 90 days had expired on 21.12.2023. Therefore, the application filed for extension of time by the

petitioner on 6. 01.2024 before the learned Sessions Judge, was held to be not maintainable as learned Sessions Judge has no discretion to extend the time beyond 90 days.

4. Feeling aggrieved by the order dated 08.01.2024, passed by learned Sessions Judge, Sirmour, District at Nahan, the present petition under Section 482 of Cr.P.C, has been filed by the petitioner seeking extension of time for depositing 20% of the fine amount as had been ordered by learned Sessions Judge on 22.09.2023 in the appeal filed by the present petitioner against the judgment of conviction and order of sentence dated 22.08.2023.

5. From a perusal of the petition specifically Para-3 of the petition, it is evident that on account of bonafide reasons detailed therein, the petitioner was constrained from depositing 20% of the compensation amount, as had been ordered by learned Sessions Judge, Sirmour, District at Nahan vide order dated 22.09.2023.

6. For the bonafide reasons mentioned in the present petition and in the interest of justice, the period for depositing the compensation amount, as ordered by learned Sessions Judge, Sirmour, District at Nahan vide order dated 22.09.2023 is extended by two weeks from today.

6. Accordingly, the present petition is disposed of in above- terms.