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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 1319/2023**

SAFETY ENERGY SOLUTION P. LTD
THROUGH ITS DIRECTOR SH. U P.SINGH
& ANR.

..... Petitioners

Through: Mr. Ashim Vachher and
Mr. Vaibhav Dabas, Advs.

versus

GOPI RAM (SINCE DECEASED) THROUGH
ITS LRS. & ORS.

..... Respondents

Through: Ms. Namita Roy and Ms.
Gopa Biswas, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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15.02.2024

CRL.M.(BAIL) 287/2024

1. The present petition is filed challenging the order dated 10.11.2023 (hereafter '**impugned judgment**'), passed by the Additional Sessions Judge ('**ASJ**'), Dwarka Courts, New Delhi, in Criminal Appeal No. 445/2019. The petitioners have also challenged the judgment on conviction dated 17.07.2019 and order on sentence dated 05.08.2019, passed by the learned Metropolitan Magistrate ('**MM**'), South West, Dwarka Courts, New Delhi, in CC No. 4990027/2016.

2. The learned ASJ, by the impugned judgment, has upheld the judgment on conviction dated 17.07.2019 and order on sentence dated 05.08.2019, passed by the learned MM.

3. By the judgment on conviction dated 17.07.2019, the petitioners were convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 ('**NI Act**'). By the order on sentence dated 05.08.2019, Petitioner No.2 was sentenced to

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undergo simple imprisonment for a period of six months and to pay a compensation of ₹10 Crores to the Legal Representatives of the complainant, that is, the respondents, and in default in payment of compensation, to further undergo further simple imprisonment for a period of six months. Petitioner No.1 was also directed to pay a compensation of ₹10 Crores to the respondents.

4. The learned counsel for Petitioner No.2 submits that the petitioner was on bail during the pendency of the trial and has never misused the liberty.

5. He further submits that the Appellate Court had suspended the sentence and had directed Petitioner No.2 to deposit a sum of ₹2 Crores, however, due to financial constraint, only ₹10 Lakhs were deposited and the rest of the money could not be deposited.

6. He submits that his challenge to the said order for deposit of a sum of ₹2 Crores was dismissed by this Court, and Petitioner No.2 surrendered thereafter on 26.04.2023. He submits that Petitioner No.2 is in judicial custody since then.

7. He submits that Petitioner No.2 has already spent around ten months in custody in the present case and the maximum sentence, even if the petitioner fails to pay the compensation amount, is twelve months.

8. The learned counsel further submits that the present case relates to the complaint filed in relation to dishonour of three cheques. He submits that, admittedly, the dues in relation to one of the cheques had already been paid and therefore, the issuance of statutory notice for dishonour of three cheques was contrary to the provisions of the NI Act. He submits that the complaint was also filed for dishonour of three cheques even though, the dues in relation to one cheque had already been cleared.



9. The learned counsel for the respondents submits that Petitioner No.2, while on bail during the pendency of the appeal, had failed to surrender which led to the proceedings under Section 82 of the Code of Criminal Procedure, 1973.

10. It is not disputed that the applicant is in custody since 26.04.2023.

11. The present petition is not likely to be taken up for final hearing in the near future. In such circumstances, when the petition is finally heard, Petitioner No.2 would have already undergone his entire sentence in custody and the present petition would be infructuous.

12. The apprehension of the learned counsel for the respondents that Petitioner No.2 would flee from justice can be taken care of by putting appropriate conditions.

13. In view of the above, the sentence of Petitioner No.2 is suspended till the pendency of the present revision petition and Petitioner No.2 is directed to be released on bail, on furnishing a personal bond for a sum of ₹1 Lakh (Rupees One Lakh Only) with two sureties of the like amount, subject to the satisfaction of the concerned Jail Superintendent, on the following conditions:

- a. He shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- b. He shall under no circumstance leave the country without the permission of the Court;
- c. He shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
- d. He shall appear before this Court as and when directed.

14. The present application is disposed of in the aforesaid



terms.

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15. List on 22.07.2024.

AMIT MAHAJAN, J

FEBRUARY 15, 2024 / 'KDK'