



129 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CRM-M-23622-2025

Date of Decision: 02.05.2025

Rajender @ Rajender Nehra

..... Petitioner

Versus

M/s Aggarwal Udyog and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Knishk Swaroop, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition filed under Section 528 of BNSS, 2023, is for quashing of the impugned order dated 15.02.2025 (Annexure P-2), passed by learned Additional Sessions Judge, Hisar vide which sentence of the petitioner was suspended with the condition to deposit 20% of the compensation awarded by learned trial Court.

2. Learned counsel for the petitioner has stated that the petitioner was prosecuted in a complaint under Section 138 the Negotiable Instruments Act, 1881 (for short, 'the Act') and he was convicted by learned Judicial Magistrate Ist Class, Hisar under Section 138 of the Act, vide judgment dated 18.01.2025 and sentenced to undergo simple imprisonment for two months and was ordered to pay compensation to the tune of 1.2 times the cheque amount to the complainant. It is further submitted that against the order dated 18.01.2025, the petitioner filed an appeal before the Court of learned Additional Sessions Judge at Hisar and learned Appellate Court vide its impugned order dated 15.02.2025 (Annexure P-2) suspended the sentence of petitioner subject to deposit of 20% of the compensation amount with the aid of Section 148 of the NI Act. However, due to financial constraints, the petitioner failed to comply with the order dated 15.02.2025. He submits that



even otherwise, the impugned order dated 15.02.2025 passed by the learned Appellate Court is in violation of the law settled by Hon'ble Supreme Court in **Jamboo Bhandari vs M.P.State Industrial Development Corporation Ltd. and others**, 2024(1) SCC (Cri) 90 wherein it has been held that when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused who has been convicted for offence under Section 138 of the NI Act, it is always open for the Appellate Court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount. As stated earlier, if the Appellate Court comes to the conclusion that it is an exceptional case, the reasons for coming to the said conclusion must be recorded, which is missing in the present case. It is submitted that learned trial Court has not appreciated the case and circumstances of the petitioner as per mandate of Hon'ble Supreme Court in **Jamboo Bhandari's** case (supra).

3. Notice of motion.

4. Mr. Sumit Jain, Addl. AG, Haryana, accepts notice on behalf of the State.

5. After hearing learned counsel for the petitioner and perusing the record, it is apparent that sentence of the petitioner was suspended by learned Appellate Court subject to deposit of 20% of the compensation amount awarded by learned trial Court. However, the petitioner did not comply with the same.

4. In view of the aforesaid facts and the judicial precedent settled by Hon'ble Apex Court in **Jamboo Bhandari's** case (supra), without



commenting anything on the merits of the case, the present petition is disposed of. Petitioner is relegated to approach the learned Appellate Court concerned and file an appropriate application before it, which would be decided, by taking into consideration the law laid down by the Hon'ble Apex Court in **Jamboo Bhandari's** case (supra) in this regard within one month from the date of its filing. The direction given in the order dated 15.02.2025 by learned Appellate Court to the extent of depositing 20% of compensation, is set aside and the petitioner will continue to remain on bail as per order dated 15.02.2025 of learned Appellate Court till the above-said application is disposed of by it.

(RAJESH BHARDWAJ)
JUDGE

02.05.2025

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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No