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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-4569-2025

Date of decision: 28.01.2025

Pawan Kumar

.....Petitioner

versus

Vikram Singh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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Present :- Mr. Ram Kumar Saini, Advocate  
for the petitioner.

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**RAJESH BHARDWAJ, J.**

1. Prayer in the present petition is for quashing the impugned order dated 04.12.2024 (Annexure P-4) passed by the learned Additional Sessions Judge, Hisar in Criminal Appeal No.434 dated 04.12.2024 titled as *Pawan Kumar Vs. Vikram Singh and another* arising out of Criminal Complaint bearing NACT No.1955 dated 05.05.2022 decided on 06.11.2024 whereby learned Appellate Court had suspended the sentence of the petitioner subject to condition to deposit 20% of the amount of compensation imposed upon him by the trial Court within sixty days, failing which, the suspension of sentence shall stand vacated.

2. Learned counsel for the petitioner has stated that petitioner was convicted by learned Judicial Magistrate Ist Class, Hisar under Section 138 of the Negotiable Instrument Act, 1881 (for short 'the NI Act'), vide judgment dated 06.11.2024 and sentenced to undergo simple imprisonment of 01 year and was ordered to pay compensation to the tune of Rs.40,50,000/- i.e. 1.5 times of the cheque amount to the complainant. It is further submitted that against the order dated 06.11.2024, the petitioner filed an appeal before the Court of learned Sessions Judge at



Hisar, which is pending adjudication for 24.02.2025. Though application for suspension of sentence of petitioner was allowed, vide order dated 04.12.2024, however, the Appellate Court, ordered the petitioner to deposit 20% of the compensation amount with aid of Section 148 of the NI Act within sixty days. He has submitted that the petitioner has not been provided any opportunity of hearing to submit his defence before the order was passed and hence the same is unsustainable in the eyes of law. It is further submitted that the impugned order has been passed by the learned Appellate Court 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 circumstances of the petitioner as per mandate of Hon'ble Supreme Court in *Jamboo Bhandari's case (supra)*.

3. Heard.

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 passing a fresh order, by taking into consideration the law laid down by the Hon'ble Apex Court in *Jamboo Bhandari's case (supra)* in this regard within sixty days from the date of filing of the application. The directions given in the order dated 04.12.2024 by learned Appellate Court to the extent of depositing 20% of compensation amount within sixty days from the date of order is *set aside* and the petitioner shall continue to remain on bail as per order dated 04.12.2024 of learned Appellate Court till the above said application is decided by it.

( **RAJESH BHARDWAJ** )  
**JUDGE**

**28.01.2025**  
*m. sharma*

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No