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

**CRM-M No.32959 of 2025
Date of Decision : 01.07.2025**

Avtar Singh @ Avtar Singh Mann

.....Petitioner

Versus

Amrik Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Shubham Chandel, Advocate for
Mr. Sunny K. Singla, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of impugned order dated 10.03.2025 (Annexure P-4) passed by the learned Additional Sessions Judge, Malerkotla to the extent vide which the petitioner was directed to deposit 20% of the total amount of compensation awarded by the learned trial Court in appeal bearing CRA No.38 of 2025 date of registration 10.03.2025, titled as 'Avtar Singh vs. Amrik Singh' which has been filed against judgment dated 10.02.2025 (Annexure P-1) passed by the learned JMIC, Malerkotla in complaint under Section 138 of Negotiable Instruments Act titled as 'Amrik Singh vs. Avtar Singh' bearing NACT-300-2020, date of institution 23.06.2020 being illegal and contrary to the provision of law and contrary to the law laid down by Hon'ble Supreme Court of India in the case titled as Jamboo Bhandari vs. MP State Industrial Development Corporation Ltd. and others, 2023 INSC



822. Further prayer has been made for staying the operation and implementation of impugned order dated 10.03.2025 during the pendency of the present petition.

2. Learned counsel for the petitioner has submitted that the petitioner was prosecuted in a complaint under Section 138 of the Negotiable Instruments Act. He has further submitted that the petitioner was convicted by the learned Sub Divisional Judicial Magistrate, Malerkotla vide judgment dated 10.02.2025 and sentenced to undergo rigorous imprisonment for 01 year and was ordered to pay compensation to the tune of double the cheque amount to the complainant. It is further submitted that the petitioner assailed the order dated 10.02.2025 by way of filing an appeal before the Court of learned Additional Sessions Judge, Malerkotla, which is admitted. Though the application for suspension of sentence of the petitioner was allowed, however, the learned Appellate Court vide impugned order dated 10.03.2025, ordered the petitioner to deposit 20% of the cheque amount. He has submitted that the impugned order has been passed without giving any opportunity to the petitioner to submit response to the same. He has further submitted that the impugned order directing the petitioner to deposit 20% of the cheque amount is unsustainable in the eyes of law as per the provisions of Section 148 of Negotiable Instruments Act and the same has been passed in violation of the law settled by the Hon'ble Supreme Court in *Jamboo Bhandari vs M.P.State Industrial Development Corporation Ltd. and others, 2024(1) SCC (Cri) 90*. He prays that the petitioner be granted one opportunity to present his case before the Appellate Court and then pass fresh order after considering his contentions as well as the mandate of Hon'ble Supreme



Court. He has further stated that in the *Jamboo Bhandari case (supra)*, 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.

3. Heard.

4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the learned Appellate Court suspended the sentence of the petitioner and ordered to deposit 20% of the cheque amount vide order dated 10.03.2025. The order has been passed without affording any opportunity to the petitioner to explain his position and as such, the same is against the mandate of Hon'ble Supreme Court in *Jamboo Bhandari's case (supra)*.

5. 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 two weeks from the date of



filing of the application. The direction given in the order dated 10.03.2025 by the learned Appellate Court to the extent of depositing 20% of the cheque amount is hereby set aside, however, the petitioner shall continue to remain on bail as per order dated 10.03.2025 of the learned Appellate Court till the above said application is disposed of by it.

01.07.2025

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Whether speaking/reasoned

Whether reportable

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(RAJESH BHARDWAJ)

JUDGE

Yes/No

Yes/No