



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

134

CRM-M-55707-2025

Date of Decision: 30.09.2025

KHEM CHAND @ BHARAT

.....PETITIONER

Versus

STATE OF HARYANA AND ANR.

..... RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Sanjay Verma, Advocate
for the petitioner.

SURYA PARTAP SINGH, J. (Oral):

1. The present petition has been filed by the petitioner against the order dated 17.11.2023, passed by learned Additional Sessions Judge, Gurugram, hereinafter referred to as 'Appellate Court', whereby the application for suspension of sentence, moved by the petitioner, has been allowed and the sentence awarded to the petitioner has been suspended. However the order with respect to suspension of sentence is subject to the condition of furnishing bonds in the sum of Rs.50,000/- with one surety in the like amount within a period of 30 days, and also the deposit of 20% of the fine/compensation imposed by learned trial Court within a period of 60 days before the learned trial Court/Duty Magistrate.

2. In nut-shell the facts emerging from record are that the petitioner faced a trial in a complaint case titled as 'Vinay Kumar Vs. Khem Chand' for the offence under Section 138 of Negotiable Instrument Act 1881 and the abovementioned trial culminated into conviction of the petitioner.



Accordingly, the learned trial Court sentenced the petitioner to undergo simple imprisonment for a period of 02 months and pay compensation of Rs.30,00,000/-.

3. Aggrieved of the abovementioned order, when the petitioner filed an appeal in the Court of Sessions, the learned Appellate Court by virtue of impugned order dated 17.11.2023, suspended the sentence awarded to the petitioner. However, it imposed a condition, in view of Section 148 of the Negotiable Instruments (Amendment) Act, 2018, and directed the petitioner to deposit an amount equivalent to 20% of the amount of compensation within a period of 60 days.

4. Heard.

5. Learned counsel for the petitioner contends that the learned Appellate Court, while imposing the abovementioned condition, did not give any opportunity to the petitioner to explain his hardship and that without giving an opportunity of being heard, the abovementioned harsh condition has been imposed. According to learned counsel for the petitioner, the learned Appellate Court has failed to appreciate that the learned trial Court has committed a grave error when it directed to pay compensation of Rs.30,00,000/- which in no way, can be termed to be justified.

6. While referring to the principles of law laid down by the Hon'ble Supreme Court in a case of '*Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. and others*', learned counsel for the petitioner has contended that the learned Appellate Court was duty bound to give an opportunity to the petitioner to explain the circumstances and pass a reasonable order with regard to deposit of compensation or any part



thereof. According to learned counsel for the petitioner, since any opportunity of being heard was not afforded to the petitioner, by the learned Appellate Court, the instant case may be remanded back to the learned Appellate Court for passing a fresh order after hearing the petitioner.

7. The record has been perused carefully.

8. A perusal of record shows that in this case, the amount of compensation awarded by the learned trial Court is Rs.30,00,000/-. If the condition imposed by the learned Appellate Court, i.e. deposit of 20% of amount of compensation, is complied with, it will create hardship for the petitioner. In addition to above, it is also relevant to note that the abovesaid order has been passed without giving an opportunity of being heard to the petitioner.

9. Without issuing any notice to the respondent, lest it may delay the proceedings, the present petition is accepted. The impugned order is set aside. The learned Appellate Court is directed to pass a fresh order in the light of the law explained by the Hon'ble Supreme Court in *Jamboo Bhandari's* case (*supra*).

10. Since this order has been passed in the absence of the respondent, the respondent will be at liberty to approach this Court, in case he is aggrieved by this order.

(SURYA PARTAP SINGH)
JUDGE

30.09.2025

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