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

CRM-M-30790-2025

Date of decision :29.05.2025

Satnam Singh

.....Petitioner

Versus

Balwant Rai and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rhythem Bajaj, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of order dated 27.11.2024 (Annexure P-2), passed by Ld. Additional Sessions Judge, Fazilka in case No.CRA/344/2024 dated 19.11.2024 (Complaint NACT/627/2021 instituted on 24.05.2021 and decided on 22.10.2024) vide which the petitioner was directed to 20% of total amount of compensation awarded by learned trial Court within a period of 60 days. Further prayer has been made for staying the operation of the impugned order.

2. Learned counsel for the petitioner has stated that petitioner was prosecuted in a complaint under Section 138 of the NI Act read with Section 420 IPC and he was convicted by learned Judicial Magistrate Ist Class-3, Abohar, Fazilka, under Section 138 of the Negotiable Instrument Act, 1881, vide judgment dated 22.10.2024 and sentenced to undergo rigorous imprisonment for 01 year and 06 months and was ordered to pay 1.25 times the cheque amount (Rs.2,50,000/-). It is further submitted that against the order dated 22.10.2024, the petitioner filed an appeal before



the Court of learned Additional Sessions Judge at Fazilka and learned Appellate Court vide its order dated 19.11.2024 (Annexure P-3) suspended the sentence of petitioner and vide order dated 27.11.2024 (Annexure P-2) he was directed to deposit 20% of the compensation amount within a period of 60 days from the date of order. However, due to financial constraints, the petitioner failed to comply with the order dated 27.11.2024. Thus, the learned Appellate Court has not afforded any opportunity to the petitioner to put forward his case and as such the Appellate Court has failed to follow the mandate of Hon'ble Supreme Court given 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's* 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. Notice of motion.

4. On the asking of the Court, Mr. Tarun Aggarwal, Addl.A.G., Punjab, accepts notice on behalf of the respondent No.2-State.



5. After hearing counsel for the petitioner and perusing the record, it is apparent that the petitioner was given 60 days time to deposit 20% of the compensation amount awarded by the trial Court and 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)**.

6. 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 filing of the application. The direction given in the order dated 27.11.2024 by learned Appellate Court to the extent of depositing 20% of compensation, is set aside and the petitioner shall continue to be on bail as per order dated 19.11.2024 of learned Appellate Court till the above-said application is disposed of by it.

29.05.2025

ps-I

(RAJESH BHARDWAJ)
JUDGE

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