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

**CRR No.1083 of 2025
Date of Decision : 28.04.2025**

Mahesh

.....Petitioner

Versus

Madan Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kanhiya Soni, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for setting aside the impugned orders dated 14.02.2025 & 25.03.2025 passed by the learned Appellate Court (learned Additional Sessions Judge, Narnaul) in an Appeal bearing CRA No.54 of 2025 titled as Mahesh vs. Madan Singh. Further prayer has been made for staying the operation of impugned orders dated 14.02.2025 & 25.03.2025 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 Judicial Magistrate Ist Class, Mohindergarh vide judgment dated 15/16.01.2025 and sentenced to undergo simple imprisonment for 06 months and was ordered to pay compensation of



Rs.3,00,000/- to the complainant. It is further submitted that the petitioner assailed the order dated 15/16.01.2025 by way of filing an appeal before the Court of learned Additional Sessions Judge, Narnaul, which is pending adjudication. Though the application for suspension of sentence of the petitioner was allowed, however, the learned Appellate Court vide impugned order dated 14.02.2025, ordered the petitioner to deposit 20% of the amount of compensation awarded. He has submitted that on 25.03.2025, the petitioner filed an application for exemption from personal appearance as he had to go out of station for some urgent work however the learned Appellate Court dismissed the same and warrants of arrest were issued against him for 30.04.2025. He has submitted that non-appearance of the petitioner was not intentional. He has further submitted that the impugned order directing the petitioner to deposit 20% of the compensation 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 compensation amount vide order dated 14.02.2025. However, due to non appearance of the petitioner, his bail was cancelled and bail/surety bonds were forfeited to the State vide order dated 25.03.2025. Warrants of arrest were also issued against the petitioner. 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 directions given in the order dated



14.02.2025 by the learned Appellate Court to the extent of depositing 20% of the compensation amount and order dated 25.03.2025 whereby bail of the petitioner stands cancelled and warrants of arrest issued against him, are hereby set aside however, the petitioner shall continue to remain on bail as per order dated 14.02.2025 of the learned Appellate Court till the above said application is disposed of by it.

28.04.2025

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**(RAJESH BHARDWAJ)
JUDGE**

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