



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

CRM-M-13942-2025

Date of decision: 12.03.2025

Ravinder Kumar

.....Petitioner

versus

Rohit Kaushik

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Abhimanyu Batra, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Prayer in the present petition is for quashing/setting aside the order dated 12.12.2024 passed by the Court of learned Additional Sessions Judge, Jind in CRA-241/2024 titled as *Ravinder Kumar Vs. Rohit Kaushik* in Complaint bearing No.NACT-58/2020 titled as *Rohit Kaushik Vs. Ravinder Kumar* filed under Section 138 of Negotiable Instruments Act, 1881 whereby while suspending the sentence of the petitioner, learned ASJ, Jind has directed the petitioner to deposit 20% amount of the compensation awarded in view of Section 148 of the Negotiable Instruments Act.

2. Learned counsel for the petitioner has stated that petitioner was convicted by learned Sub Divisional Judicial Magistrate, Narwana under Section 138 of the Negotiable Instrument Act, 1881 (for short 'the NI Act'), vide judgment dated 12.11.2024/14.11.2024 and sentenced to undergo rigorous imprisonment of 01 year and was ordered to pay compensation to the tune of Rs.8,00,000/-. It is further submitted that against the orders dated 12.11.2024/14.11.2024, the petitioner filed an appeal before the Court of learned Additional Sessions Judge, Jind, which



is fixed for today itself. Though application for suspension of sentence of petitioner was allowed, vide order dated 12.12.2024, however, the Appellate Court, ordered the petitioner to deposit 20% of the compensation amount within 60 days from that day. It was also directed that in case the petitioner fails to deposit the said amount within stipulated period, the suspension of sentence awarded would be automatically cancelled. He has submitted that the petitioner has not been provided any opportunity of hearing to explain his financial condition and put forward his case and hence the same is unsustainable in the eyes of law. 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** 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 counsel for the petitioner and perusing the record, it is apparent that sentence of the petitioner was suspended by the learned Appellate Court subject to deposit of 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)**.

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 12.12.2024 by learned Appellate Court to the extent of depositing 20% of compensation, is *set aside* and the petitioner shall continue to remain on bail as per order dated 12.12.2024 of learned Appellate Court till the above said application is disposed of by it.

(**RAJESH BHARDWAJ**)
JUDGE

12.03.2025
m. sharma

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