

128 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.8559 of 2024(O&M)

Date of Decision: 28.02.2024

Anoop Singh Dahiya

..... Petitioner

V/s.

Vijay Singh and Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. M.S. Kundu, Advocate
for the petitioner.

Harkesh Manuja, J. (Oral)

1. By way of present petition, prayer has been made for quashing of order dated 28.11.2023 passed by First Appellate Court whereby Addl. Sessions Judge, Charkhi Dadri has issued directions against the petitioner to deposit 25% of the compensation amount.

2. The petitioner has been convicted and sentenced by the Court of Chief Judicial Magistrate, Charkhi Dadri vide decision dated 27.10.2023. Subsequently, the petitioner filed Criminal Appeal No.133 of 2023 titled as “Anoop Singh Dahiya Vs. Vijay Singh” wherein he has been directed to deposit 25% of the compensation amount within a period of 60 days. The operative part of the order dated 28.11.2023 is reproduced as under:-

“Heard on the application for bail/ suspension of sentence. During the pendency of appeal, the substantive sentence passed by the trial Court is suspended on furnishing bail bond in the sum of Rs.25,000/- with one surety of the like amount and undertaking to appear before this Court on each and every date of hearing during the pendency of this appeal, to the satisfaction of this Court. Appellant is directed to deposit 25% of the compensation amount in favour of the complainant within 60 days from today. Personal bonds by appellant furnished, accepted and attested. The case stands adjourned to 16.12.2023 for furnishing surety

CRM-M No.8559 of 2024(O&M)

bonds in the sum of Rs. 25,000/- with one surety in the like amount. Notice of the appeal be also issued to opposite party for the date fixed.”

3. Learned counsel for the petitioner while relying upon the decision made by Hon’ble Supreme Court in case titled as “**Jamboo Bhandari Vs.M.P. State Industrial Development Corporation Ltd.**”, 2023(10) SCC 446, submits that the petitioner happens to be a poor man and is not in a position to deposit the entire amount of compensation as directed by the First Appellate Court. He submits that the petitioner was never afforded any opportunity to put forth his exceptional circumstances before the First Appellate Court. He further submits that in order to show his *bonafide* the petitioner is ready to pay 10% of the compensation amount within a period of 04 weeks from today.
4. I have heard learned counsel for the petitioner and have gone through the judgment relied upon by the petitioner passed by the Hon’ble Supreme Court in Jamboo Bhandari’s case (*supra*).
5. As a matter of fact, the petitioner has not been heard by the First Appellate Court on the point of his weak financial status, besides other exceptional circumstances as put forth in the present petition. Therefore, in terms of the decision passed in Jamboo Bhandari’s case (*supra*), the order dated 28.11.2023 is modified to the extent that the petitioner would deposit 10% of the compensation amount within a period of 04 weeks from today, before the First Appellate Court. As regards the remaining 15% of the compensation amount, he would move an appropriate application before the First Appellate Court, mentioning exceptional circumstances surrounding him and also about his financial constraints, which shall be considered within a period of 15 days thereafter, in terms of law laid down by the Hon’ble Supreme Court in Jamboo Bhandari’s case (*supra*).
6. The present petition is disposed of, in terms of aforesaid directions.

28th February, 2024
Sonia Puri

(HARKESH MANUJA)
JUDGE