

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-10441-2024

Date of Decision : February 28, 2024

SATENDER KUMAR

-PETITIONER

V/S

SANT RAM YADAV

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rohit Mittal, Advocate
for the petitioner.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioner seeks quashing of the order dated 04.01.2024 (Annexure P-1), whereby, the learned Additional Sessions Judge concerned, though has ordered his release on bail and suspended his sentence, however, the said concession was extended subject to his depositing 20% of the compensation amount, within 60 days therefrom, before the learned trial Court concerned.
2. As a matter of fact, the learned trial Court concerned has, through drawing the verdict of conviction on 08.12.2023, upon case bearing No. NI Act/200/2018, convicted the petitioner for commission of offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the 'N.I. Act'). Moreover, through order of sentence dated 11.12.2023, the petitioner has been directed to undergo R.I. for one year, and, to pay compensation to the tune of Rs.65,92,500/- including cheque amount of Rs.43,95,000/- to the complainant.
3. The verdict of conviction and order of sentence (supra)

caused pain to the petitioner and triggered him to institute a statutory appeal thereagainst before the learned appellate court concerned, which is pending consideration. However, the learned appellate court concerned has, through the impugned order (Annexure P-1), though ordered his release on bail and suspended his sentence, however, the said concession was extended subject to his depositing 20% of the compensation amount, within 60 days therefrom, before the learned trial Court concerned. Feeling aggrieved by the impugned order (Annexure P-1), the petitioner has now approached this Court, through the instant petition.

4. The learned counsel for the petitioner, in his assailing the impugned order (Annexure P-1), submits that the case of the petitioner falls in “exceptional category”, inasmuch as, he does not have any means to make payment of even 20% of the awarded compensation amount.

5. To buttress his submission, the learned counsel for the petitioner has placed reliance upon the judgment rendered by the Hon’ble Supreme Court in “*Jamboo Bhandari V/s M.P. State Industrial Development Corporation Ltd. & Ors.*”, 2023(3) Law Herald (SC) 2433.

6. On a specific query being posed by this Court, vis-a-vis, “*whether the petitioner has, or, has not, made an application before the learned appellate court concerned till date, thereby bringing the aforesaid facts on record*”, the learned counsel for the petitioner returned an answer in negative.

7. In such circumstances, this Court, at this stage, refrains from making any interference in the matter, and, deems it appropriate to relegate the petitioner to the learned appellate court concerned, by making

an appropriate motion. In case, the petitioner falls within “exceptional category”, as per the law laid down by the Hon’ble Supreme Court in this regard, thereupon the learned appellate court concerned shall make a decision on the application, if any preferred by the petitioner, as per law.

8. Disposed of accordingly.

February 28, 2024
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No