

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.21324 of 2024
Date of Decision: 30.04.2024

PAWAN KUMARPetitioner(s)
Vs
STATE OF HARYANA AND OTHERSRespondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Naveen Thakur, Advocate
for the petitioner.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing the order dated 29.09.2023 (Annexure P-1), whereby while passing order of suspension of sentence and release of the petitioner, subject to furnishing bail bonds and surety bonds, he was also directed to deposit 20% of the compensation amount.

[2]. Learned counsel for the petitioner submits that at this stage, the petitioner is not financially stable to deposit 20% of the compensation amount as he is only the bread earner of his family besides it, he has to look after his wife, three daughters and one 100% handicapped brother. Learned counsel while relying upon decision made by the Hon'ble Supreme Court in **Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others**, 2023(10)SCC 446 submits that in exceptional circumstances, the deposit as contemplated under Section 148 of the Negotiable Instruments Act, 1881 can be reduced. Relevant para 7 of the **Jamboo Bhandari's case** (supra) is reproduced as under:-

7. Therefore, 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 N.I. 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.”

[3]. Notice of motion to respondent No.1 only at this stage; no notice is required to be served upon respondent No.2/complainant as no prejudice would be caused to him which may even otherwise burden him towards unnecessary litigation expenses.

[4]. Upon advance notice, Mr. Rajiv Sidhu, D.A.G., Haryana appears on behalf of the respondent No.1/State and opposes the prayer made on behalf of the petitioner and submits that the petitioner is having sufficient source to deposit the amount of compensation, however, for no valid reasons, avoiding the deposit.

[5]. Having heard learned counsel for the parties and considering the facts and circumstances of the present case, the order dated 29.09.2023 is modified to the extent that the petitioner shall deposit 5% towards the amount of compensation before the First Appellate Court within a period of 15 days from today, which shall be released to respondent No.2- complainant. As regards the remaining amount towards compensation, the petitioner shall be at liberty to approach the first Appellate Court pointing out exceptional case in his favour by moving an application within two weeks and the same shall be considered and decided by the concerned Court within two weeks thereafter while keeping in view the exposition of law laid down in *Jamboo Bhandari's* case (supra).

[6]. Accordingly, the petition stands disposed of.

April 30, 2024
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(HARKESH MANUJA)
JUDGE