



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

CRM-M-32230-2024

Date of Decision :**09.07.2024**

SANDEEP MALIK

.....Petitioner

VERSUS

ASHOK KUMAR

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Abhishek Sindhvani, Advocate,
for the petitioner.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioner seeks quashing of the impugned order dated 08.04.2024 (Annexure P-3), whereby, the learned Additional Sessions Judge concerned, while suspending his sentence, has directed him to deposit 20% of the compensation amount as awarded by the learned trial court concerned, within 60 days therefrom.

2. The petitioner has been convicted by the learned trial Court concerned, vide order dated 11.03.2024 and vide order dated 14.03.2024, he was sentenced to undergo simple imprisonment for a period of one year for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and to pay compensation of Rs. 9 lakhs, to the complainant.

3. The verdict of conviction and order of sentence (*supra*), has caused grievance to the petitioner and has 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 (*supra*), directed him to deposit 20% of the fine or compensation amount, within 60 days therefrom. Feeling aggrieved by the impugned order (*supra*), the petitioner has now approached this Court, through the instant petition.

4. The learned counsel for the petitioner, in his assailing the impugned order (*supra*), 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 compensation amount as imposed upon him by the Court concerned.

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, since 2019 till date, made an application before the learned appellate court concerned, thereby bringing the aforesaid facts on record*”, the learned counsel for the petitioner returned the answer in negative.

7. In such circumstances, this Court, at this stage, refrains from making any interference in the matter, and, deems it fit and 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.

July 09, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No