



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

134

CRM-M-36182-2024
Date of decision: 30.07.2024

GURDEV SINGH
Versus
PARDEEP KUMAR
....Petitioner
...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Munish Puri, Advocate
for the petitioner.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, the petitioner seeks quashing of the order dated 16.04.2024 (Annexure P-1), whereby, the learned Additional Sessions Judge Patiala has directed him to deposit 20% of the compensation amount, within a period of two months therefrom, before the learned trial Court concerned.
2. As a matter of fact, the learned trial Court concerned, through drawing the verdict of conviction on 19.03.2024, in case bearing No. COMA/54/2022, 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 the order of sentence dated 19.03.2024, the petitioner was sentenced as under:-

- i) *U/s 138 N.I. Act convict shall undergo rigorous imprisonment for a period of one year.*
- (ii) *U/s 357(3) Cr.P.C the convict shall pay compensation of Rs.15,00,000/- (Rupees Fifteen Lacs only) to the complainant being the cheque amount, who can recover entire amount either from accused or from his personal properties under law.*



- 2-

3. The verdict of conviction and order of sentence (supra), caused grievence to the petitioner, and triggered him to institute a statutory appeal thereagainst, before the learned appellate court concerned, which is pending adjudication. However, the learned appellate court concerned has, through the impugned order (Annexure P-1), directed him to deposit 20% of the compensation amount, within a period of two months, 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 compensation amount as imposed upon him.

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 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 the judgment of Jamboo Bhandari (supra) 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. The instant petition is **disposed** of accordingly.

30.07.2024
amandeep

(KULDEEP TIWARI)
JUDGE

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