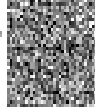


2024.PHHC:073437



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

CRM-M-38962-2022**Date of Decision : 23.05.2024****VIJAY KUMAR**

.....Petitioner

VERSUS**MAHINDRA AND MAHINDRA FINANCIAL SERVICES LTD AND
ANOTHER**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Karanjeet Singh Brar , Advocate,
for the petitioner.

Ms. Ashu Rana, Advocate and
Mr. Mohit Kapoor, Advocate
for respondent no.1.

Mr.Pardeep Bajaj, DAG, Punjab
for respondent no.2.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioner seeks setting aside of the impugned order dated 09.08.2022, whereby, the learned Additional Sessions Judge concerned, while suspending his sentence, has directed him to deposit 20% of the compensation amount, within 60 days therefrom, before the learned trial Court concerned, failing which his suspension of sentence shall automatically stand cancelled.

2. The petitioner has been convicted by the learned trial Court concerned, vide order dated 18.07.2022 and vide order of even date, he

was sentenced to undergo rigorous imprisonment for a period of two years. Further the petitioner, was also imposed a fine equivalent to the cheque amount, which shall be payable as compensation to the complainant under Section 357 Cr.P.C.

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, before the learned trial Court concerned. 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 Courts 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.

May 23, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

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