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

**CRM-M No.47711 of 2024
Date of decision : 23.09.2024**

Jasbir Singh

.....Petitioner

versus

Gurmit Singh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sunny K. Singla, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed seeking quashing of impugned order dated 29.08.2023 (Annexure P-4) passed by the Ld. Additional Sessions Judge, Sangrur to the extent vide which the petitioner was directed to deposit 20% of the total amount of compensation awarded by the Ld. Trial Court in appeal bearing registration No.CRA/285/2023 date of registration 22.08.2023 titled as “Jasbir Singh vs. Gurmit Singh and another” which has been filed against judgment dated 04.08.2023 (Annexure P-1) passed by Ld. JMIC, Dhuri in complaint under Section 138 of Negotiable Instrument Act, 1881 titled as “Gurmit Singh vs. Jasbir Singh” bearing No.NACT-297-2018, date of institution 09.05.2018 being illegal and contrary to the provisions of law and contrary to the law laid down by Hon’ble Supreme Court of India in case titled as Jamboo Bhandari vs. MP State Industrial Development Corporation Ltd. And others, 2023 INSC 822. Further prayer has been made for staying the operation and implementation of impugned order dated 29.08.2023 to the extent vide which the petitioner was directed to deposit



20% of the total amount of compensation awarded by the Ld. Trial Court during the pendency of present petition.

2. Learned counsel for the petitioner has stated that petitioner was convicted by learned Sub Divisional Judicial Magistrate, Dhuri under Section 138 of the Negotiable Instrument Act, 1881 (for brevity, 'the NI Act'), vide judgment dated 04.08.2023 and sentenced to undergo rigorous imprisonment of 02 years and was ordered to pay compensation of Rs.5,00,000/-. It is further submitted that the petitioner assailed the order dated 04.08.2023 by filing an appeal before the Court of learned Additional Sessions Judge at Sangrur, which is pending adjudication. Though application for suspension of sentence of petitioner was allowed, however, the Appellate Court, vide impugned order, dated 29.08.2023, ordered the petitioner to pay 20% of the compensation amount under Section 148 of Negotiable Instruments Act. He has submitted that the petitioner has not been provided any opportunity of hearing to submit his defence before the order was passed and hence the same is unsustainable in the eyes of law. It is further submitted that the impugned order has been passed by the learned Appellate Court in violation of the law settled by Hon'ble Supreme Court in ***Jamboo Bhandari vs M.P. State Industrial Development Corporation Ltd. and others, 2023 (4) RCR (Criminal) 296*** wherein it has been held that 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 NI 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 or not, the reasons for coming to the said conclusion must



be recorded, which is missing in the present case.

3. Heard.
4. In view of the aforesaid facts, and the judicial precedent settled by Hon’ble Apex Court in *Jamboo Bhandari’s case (supra)*, without commenting anything on the merits of the case, the present petition is disposed of. Petitioner is relegated to approach the learned Appellate Court concerned and file an appropriate application before it, which would be decided, by taking into consideration the law laid down by the Hon’ble Apex Court in *Jamboo Bhandari’s case (supra)* in this regard within one month from the date of filing of the application. The directions given in the order dated 29.08.2023 by learned Appellate Court to the extent of depositing 20% of compensation amount on or before the date fixed and in case he fails to deposit the same, the bail granted to the accused shall be deemed to have been cancelled, is set aside. The petitioner will remain on bail as granted by the appellate Court till the abovesaid application is decided by the appellate Court in view of the directions as given above.
5. Disposed of accordingly.

23.09.2024
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No