



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49551-2024 &
CRM-M-49595-2024
Date of decision: 03.10.2024

CRM-M-49551-2024

Manjit Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

AND

CRM-M-49595-2024

Manjit Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Digvijay Nagpal, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. This order will dispose of the afore-titled connected petitions. CRM-M-49551-2024 is filed by petitioner seeking quashing of order dated 15.05.2023 Annexure P-2 passed in Criminal Appeal No.76/2023 Manjit Singh Vs. HDFC Bank Limited, to the extent whereby the Court of learned Sessions Judge, Sri Muktsar Sahib directed the petitioner to deposit 20% of the compensation amount awarded by the trial Court, as per provisions of Section 148 NI Act. CRM-M-49595-2024 is filed by the petitioner against order dated 25.09.2023 Annexure P-3 passed by the Court of Learned



Sessions Judge, Sri Muktsar Sahib in aforesaid appeal whereby on account of the absence of petitioner, on the date fixed, the bail order of petitioner was cancelled.

2. The counsel for the petitioner submits that respondent No.2 filed criminal complaint under Section 138 of NI Act against the petitioner wherein on conclusion of trial, the petitioner was convicted and sentenced to imprisonment and to pay a compensation worth Rs.13,93,000/- under Section 138 NI Act vide judgment and order dated 27.04.2023 by the Court of Sub Divisional Judicial Magistrate, Malout. Being aggrieved, petitioner has preferred appeal against the said judgment and order and the Appellate Court vide order dated 15.05.2023 (Annexure P-2) has entertained the appeal and also disposed of application seeking suspension of sentence with direction to the petitioner to deposit 20% of the compensation awarded by the learned trial Court, in view of provision of Section 148 NI Act on or before 21.08.2023. Counsel for the petitioner further submits that the petitioner was unable to arrange the said amount within the stipulated period and as such was unable to appear before the appellate Court. Consequently, impugned order Annexure P-3 dated 25.09.2023 was passed by the appellate Court.

3. Learned counsel for the petitioner, *inter alia*, contends that the learned Appellate Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 20% of the compensation in a mechanical manner, without assigning any reasons and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon'ble Supreme Court in Criminal Appeal Nos.2741 of 2023 (@ SLP(Crl.) Nos.



4927 of 2023 **Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others**, decided on 04.09.2023, wherein it was observed as follows:-

“6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, Appellate Court will be justified in imposing the condition of deposit as provided in Section 148. However, in a case where the Appellate Court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded. 7. Therefore, when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an petitioner 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 4 conclusion must be recorded.”

4. I have heard the counsel for the petitioner and gone through the impugned order and the case law referred by counsel for the petitioner and is of the view that the impugned order dated 15.05.2023 (Annexure P-2) to the extent whereby petitioner is directed to deposit 20% of the compensation amount awarded by trial Court is not passed by the Appellate Court in accordance with the law. The appellate Court has also acted in a hasty manner while passing order Annexure P-3 dated 25.09.2023 whereby the bail order of the petitioner was cancelled. The said order is also not sustainable and deserves to be set aside.



5. For the foregoing reasons, the impugned order dated 15.05.2023 (Annexure P-2) to the extent whereby the condition of depositing of 20% of compensation amount awarded by the trial Court has been imposed for the purpose of suspension of sentence, is hereby set aside. The subsequent order dated 25.09.2023 (Annexure P-3) is also set aside. The Appellate Court is directed to re-consider the matter in issue after giving opportunity of hearing to the petitioner and then to pass appropriate order in accordance with the law laid down in **Jamboo Bhandari’s case** (supra) and till then not to take any coercive action against the petitioner. The petitioner is directed to appear before the Appellate Court on the next date fixed in the appeal.

6. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

03.10.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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