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

CRM-M-54398-2024

Date of Decision: November 04, 2024

Balwan Singh Pannu

.....Petitioner

Versus

Chandi Ram

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Abhimanyu Batra. Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

Present petition has been filed under Section 482 Cr.P.C. praying to quash impugned order, dated 02.06.2023, Annexure P-1, passed by learned Additional Sessions Judge, Jind, in CRA-136-2023 titled as **Balwan Singh Pannu vs Chandi Ram**, in complaint bearing No.NACT-86/2017, titled as **Chandi Ram vs Balwan Singh Pannu** filed under Section 138 of Negotiable Instruments Act, 1881 (for brevity, 'the NI Act') whereby while suspending the sentence of the petitioner, learned appellate Court has directed the petitioner/accused to deposit 20 per cent of the amount of compensation awarded in view of Section 148 of the NI Act. It is further prayed to stay the impugned order, dated 10.03.2023 during pendency of the present petition.

Learned counsel for the petitioner has stated that petitioner was convicted by learned Judicial Magistrate Ist Class, Jind, under Section 138



sentenced to undergo RI for a period of one year and was ordered to pay fine of Rs.18,00,000/- under Section 357(3) Cr.P.C.. It is further submitted that against the order dated, 05/08.05.2023, the petitioner filed an appeal before the Court of Sessions at Jind. Though application for suspension of sentence of petitioner was allowed, however, the appellate Court, vide impugned order, dated 02.06.2023, directed the petitioner to deposit 20 per cent of the compensation amount within sixty days from that date in view of Section 148 of the NI Act. Learned counsel for the petitioner 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 moreover 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**, 2024(1) SCC (Cri) 90 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, the reasons for coming to the said conclusion must be recorded, which is missing in the present case.

Heard.

In view of the aforesaid facts, and the judicial precedent settled



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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 application, 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 02.06.2023 by learned Appellate Court to the extent of depositing of 20% of compensation amount within sixty days is set aside.

Disposed of accordingly.

November 04, 2024

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(RAJESH BHARDWAJ)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |